



**LOCAL RULES**

**OF THE**

**HARDIN COUNTY COMMON PLEAS COURT**

**Judge William D. Hart**

**Magistrate Robert T. Maison**

**(Amendments included as of July 1, 2010)**

**\*PAGE NUMBERS MAY BE OFF DUE TO ADDITIONS AND AMENDMENTS\***

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## **GENERAL**

### **LOCAL RULES - SCOPE AND AUTHORITY**

Effective January 16, 2007, the following local rules of the Hardin County Common Pleas Court General Division are intended to be supplemental to, and be used in conjunction with all rules promulgated by the Ohio Supreme Court, and all amendments or supplements thereto as may occur from time to time.

These local rules are to be interpreted consistent with the various Ohio Rules. In case of conflict or contradiction, the Ohio Rules will prevail.

## **RULE NUMBER 1**

### **HOURS OF COURT SESSIONS - HOLIDAYS**

The offices of the Court and the Clerk of Court shall be open for the transaction of business between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, legal holidays in all cases excepted.

Holidays will be observed as approved and established by the Hardin County Commissioners. The court offices may also close upon Order when the Court finds it necessary and proper to cease operations. Appropriate announcement of any closing shall be made to the news media as required.

## **RULE NUMBER 2**

### **RECORDS - FILING OF CASES**

1. **RECORDS OPEN FOR INSPECTION:** All indexes, dockets, journals and case files, including all documents contained therein, maintained in accordance with law by the Clerk, shall be open for inspection by anyone at any time during regular business hours. Original papers, however, shall not be removed from the office of the Clerk, Judge or Magistrate.

Any person shall be entitled to copies of any document contained in any file. The charge therefore shall be as established by state law and local court rules.

Public access to the court's dockets may also be obtained through the Public Docket terminal or can be accessed by computer via a modem. Persons interested in computer access should contact the court staff to request the necessary information to gain entrance to the computer system.

2. **RECORDS CHECKS:** All requests for records checks must be submitted in writing, accompanied by the required fee pursuant to court rule, and shall contain, at minimum, the following information:

- A. The reason for the request,
- B. A search time frame,
- C. The full name of the person's record to be checked,

- D. Social security number,
- E. Date of birth.

Requests for record checks which do not comply with this rule will not be performed.

3. **NUMBERING:** Civil, domestic and criminal actions brought in this court shall be numbered consecutively as filed within the separate categories described and shall be entered on the appropriate docket and indexed as numbered. To assist in the proper designation and numbering of new cases, all original pleadings submitted for filing in the civil and domestic relations divisions shall include a completed case designation form. (See Appendix A) All pleadings, motions or other papers filed in such case shall contain the assigned case number.

4. **FILINGS:** All pleadings, motions and all other papers filed in an action shall be typed or legibly handwritten upon 8 ½ x 11" paper with a blank space of at least three inches at the top of the right side of the first page for endorsement thereon by the Clerk, and shall be filed in accordance with the Civil Rules. In addition, all pleadings shall bear the filing attorneys Supreme Court identification number as well as which party he/she represents. (Ohio Rule of Civil Procedure 10(E))

5. **PLEADINGS:** Each complaint filed must show in the caption the post office address, if known, of each plaintiff and defendant. Upon learning of any new address of plaintiff(s) or defendant(s), counsel shall report the same to the Clerk, and the correction may be added by the Clerk by interlineation. (Ohio Rule of Civil Procedure 10(A))

At the time of filing pleadings requiring a copy thereof to be served by the Clerk, counsel shall file with the Clerk sufficient copies to allow for service.

Any pleadings, motions or other papers not in compliance with these rules or the appropriate Ohio rules shall be reported by the Clerk to the Court. The Clerk will notify the party or attorney filing non-complying documents by telephone or mail of the non-compliance. Postage or long distance charges will be added to the costs. If no corrective action is taken within a reasonable time, the Court may thereafter, on its own motion, take such action as may be warranted including dismissal of an action or striking pleadings from the files.

No pleading, brief, memorandum or other document filed with the Clerk of Courts will include as exhibits or otherwise copies of authorities, whether cases decided by courts, reported or unreported, secondary authorities or similar non-evidentiary materials.

Counsel desiring to provide copies of authorities not readily accessible in book form or through Internet sources will not file such authority with the Clerk, but will provide such copies separately to the Court and will file a listing of such authorities with the Clerk, containing a certification that copies of such authorities have been transmitted to all counsel. Such authorities transmitted to the Court will not be considered a part of the court file and will be disposed of when the same are no longer needed.

The Clerk of Court shall accept for filing and service Interrogatories, Requests for Production of Documents, and Requests and Admissions pursuant to both civil and criminal discovery which accompany the original complaint. Thereafter, unless leave is first granted by the Court, only proof of service that an evidentiary request or response was made will be filed with and accepted by the Clerk of Courts. The entire discovery document will be served only upon the opposing party, as required by Civil Rules 27 through 37. This rule does not apply to documents attached to pleadings pursuant to requirement of law or court rule, to motions concerning compliance with discovery in which it is necessary to demonstrate compliance or non-compliance, or to depositions or other filings permitted or required by law.

A document once filed in a case shall not thereafter be filed as an attachment, but shall be incorporated by reference in all subsequent documents in which it is discussed.

Documents presented for filing with the Clerk of Courts which are not in compliance will be returned at counsel's expense to enable counsel to comply with this rule.

#### **FILINGS BY FACSIMILE**

The filing of pleadings may be made by facsimile subject to the following definitions and provisions:

#### **DEFINITIONS**

- A. **Facsimile transmission** means the transmission of a source document by a

facsimile machine that encodes a document into signals, transmits, and reconstructs the signals to print a duplicate of the source document at the receiving end.

- B. **Facsimile machine** means a machine that can send and receive a facsimile transmission either as a stand alone device or as part of a computer system.
- C. **Fax** is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
- D. **Source document** means the document transmitted to the court by facsimile machine/system.
- E. **Effective original document** means the facsimile copy of the source document received by the Clerk of Court and maintained as the original document in the court's file.
- F. **Effective date and time of filing** means the date and time that a facsimile filing is accepted by the Clerk of Court for filing.

## **PROVISIONS**

- A. All pleadings must be faxed to the Hardin County Common Pleas Clerk of Court facsimile machine at (419) 674-2273. Facsimiles to any other number will be deemed as not filed with the Clerk of Court. Exceptions will be handled on a case by case basis in the event of equipment malfunction.
- B. Facsimile filing will only be accepted if the total number of pages to be transmitted is ten or less in length, including exhibits. Filings in excess of ten pages must be filed by mail or in person at the Clerk of Courts.

### **1. EFFECTIVE ORIGINAL DOCUMENT**

A pleading filed by facsimile transmission will be accepted as an effective original document and the signature accepted as original. The facsimile pleading need not be followed with the original source document, however the person making a fax filing must maintain in his or her records, and have available for production on request by the court, the source document

filed by fax with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing. In addition, the source document filed shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

**2. EXHIBITS**

- A. Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the Court otherwise orders, the missing exhibit shall be filed with the Clerk of Court, as a separate document, not later than five (5) business days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the document and/or exhibit.
- B. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. (See Appendix B)

**3. COVER PAGE**

- A. The person filing a document by fax shall also provide therewith a cover page containing the following information:
  - a. The name of the court
  - b. The title of the case
  - c. The case number
  - d. The assigned judge
  - e. The title of the document being filed
  - f. The date of transmission

- g. The transmitting fax number
  - h. An indication of the number of pages included in the transmission, including the cover page.
  - i. If a judge or case number has not been assigned, state that fact on the cover page. If a case number has been assigned, the transmission will not be accepted without the case number.
  - j. The name, address, telephone number, fax number, Supreme Court registration number, if applicable, of the person filing the fax document, if available.
  - k. If applicable, a statement explaining how costs are being submitted.
- B. If a document is sent by fax to the Clerk of Courts without the cover page information listed above, the Clerk may, at its discretion:
- a. Enter the document(s) in the case docket and file the document(s).
  - b. Deposit the document(s) in the case file with a notation of the reason for the non-filing. In this instance, the document shall not be considered filed with the Clerk of Courts.

**4. SIGNATURE**

- A. A party who wishes to file a signed source document by fax shall either:
- a. Fax a copy of the signed source document; or
  - b. Fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source documents.
- B. A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

**5. EFFECTIVE DATE AND TIME OF FILING**

- A. The office of the Clerk of Court facsimile machine will be available to receive facsimile transmission of documents on the basis of 24 hours per day 7 days per week. Subject to the provisions of these rules, all documents sent by fax and

accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission.

- B. No pleading will be file stamped if the appropriate cost deposit, if applicable, is not on file with the court.
- C. The Clerk of Court will not send any form of notice to the sending party to acknowledge receipt of a facsimile transmission.
- D. The risk of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court by telephone.

**6. FEES AND COSTS**

- A. No document received by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees or deposits have been paid. Documents tendered to the Clerk without payment of court costs and fees or deposits or which do not conform to applicable rules will not be filed.
- B. No additional fee shall be assessed for facsimile filings.

**7. FRAUDULENT FILINGS**

- A. If it is established that any pleading(s) were transmitted without authority, the Court shall order the filing stricken.

**RULE NUMBER 3**

**COSTS AND SECURITY FOR COSTS**

- 1. **PRIOR COSTS:** When a case in this court is dismissed for want of prosecution or for failure to comply with an order of the Court, or by plaintiff without prejudice before judgment, all the proceedings by the plaintiff in the same case or in any subsequent suit upon the same cause of action shall be stayed until the costs in the former action are paid, unless otherwise ordered by the Court. In addition, no action or proceeding shall be accepted for filing by the Clerk of this court by any party or attorney of record if there remains costs due on the case which

were assessed involving the filing party.

2. **FILING FEE:** When a cost deposit is exhausted, the Clerk shall charge costs and the same shall be paid as they accrue. Further, no action or proceeding shall be accepted for filing by the clerk of this court without the required deposit, unless the refusal of the filing would cause the expiration of time limitations for filing. Upon representation of indigency, the Court shall investigate the accuracy of such representation and upon finding by the Court that such indigency does exist, the security for costs may be waived, subject to the Court's discretion.

3. **DISCRETION OF CLERK:** The Clerk of this Court is granted the following powers in his/her discretion:

- a. If any deposit is insufficient, the Clerk may require the deposit to be increased.
- b. If the costs are not paid at the termination of litigation, any deposit for costs may be applied by the Clerk to the unpaid costs due.
- c. The Clerk may make periodic or partial distribution of monies deposited for the purpose of fines and restitutions.
- d. To refuse any check tendered for any payment unless certified.

A copy of the current schedule of costs and fees for the Hardin County Common Pleas Court is attached hereto for the convenience of these Rules.

**SCHEDULE OF COST DEPOSITS  
COMMON PLEAS COURT**

1.	*All civil actions for one defendant Each additional defendant (additional deposit)	\$250.00 \$ 25.00
2.	*Counterclaims and cross claims not otherwise mentioned herein for one defendant Each additional defendant (additional deposit)	\$250.00 \$ 25.00
3.	*Dissolutions and Divorces with Children <b>(Does not include AOK attendance fees which are payable at the door when the session is attended.)</b>	\$250.00
4.	*Dissolutions and Divorces without Children/Other Domestic Relations	\$250.00
5.	Motions for Guardian Ad Litem (additional deposit)	\$100.00
6.	*All post-decree motions- Domestic with or without children	\$235.00
7.	* <u>Agreed/joint</u> post-decree motions regarding allocation of parental rights/responsibilities	\$200.00
8.	*Civil post-judgment motions	\$200.00
9.	*Proceedings in aid of execution	\$200.00
10.	*Appeals from other tribunals	\$250.00
11.	Notice of appeal to Third District Court of Appeals	\$150.00
12.	*Filing certificate of judgment (foreign)	\$ 63.00
13.	Preparing and filing certificate of judgment	\$ 68.00
14.	Release/satisfaction of certificate of judgment	\$ 5.00
15.	Making/preparing certificate of judgment	\$ 5.00
16.	Release of state tax or BWC liens filed prior to 1993	\$ 11.00
17.	Release of state tax or BWC liens filed on or after 01-01-93 through 12-31-04	\$ 30.00
18.	Release of state tax or BWC liens filed on or after 01-01-05 through 06-30-05	\$ 80.00
19.	Release of state tax or BWC liens filed on or after 07-01-05	\$ 83.00
20.	*Release of state tax or BWC liens filed on or after 01-04-06	\$133.00

21.	*Release of state tax or BWC liens filed on or after 01-01-09	\$ 83.00
22.	*Release of state tax or BWC liens filed on or after 08-03-09	\$ 73.00
23.	*Extra county action	\$165.00
24.	*Garnishment (money, property, credits) other than personal earnings	\$150.00
25.	*Garnishment of personal earnings	\$150.00
26.	Jury demand (additional deposit- \$100.00 due at the time of the filing of the demand and the remaining \$950.00 due within four weeks of the jury trial for a one day jury trial)	\$1050.00
27.	Record check	\$ 5.00
28.	Personal or residential service by a foreign sheriff's department for <u>each</u> person to be served (additional deposit)	\$ 25.00
29.	Personal or residential service by the Hardin County Sheriff's Department for <u>each</u> person to be served (additional deposit)	\$ 10.00
30.	*Writ of execution against personal property	\$350.00
31.	*Dispute Resolution Fee (effective 01/01/2009)	\$ 10.00
32.	*Record Retention (effective 01/01/2009)	\$ 20.00
33.	Praecipe for order of sale	\$500.00
	*included in filing fee	

#### **SERVICE BY PUBLICATION**

If any party requests service by publication, such party, in addition to the deposit for costs, shall arrange with the newspaper publisher for such publication, pay the costs thereof to the newspaper publisher and direct the publisher to file proof of publication with the Clerk of Courts.

In any case in which the Court has approved a poverty affidavit, it shall be the responsibility of the attorney making the request to advise the newspaper publisher in writing at the time the legal notice is presented for publication, that no funds are available for payment of the publication costs.

## SCHEDULE OF FEES

### **O.R.C. 2303.20**

The Clerk of the Court of Common Pleas shall charge the following fees:

- A. Twenty-five dollars for each cause of action which shall include the following:
  - (A) Docketing in all dockets
  - (B) Filing necessary documents, noting the filing of the document, except subpoena, on dockets;
  - (C) Issuing certificate of deposit in foreign writs
  - (D) Indexing pending suits and living judgments;
  - (E) Noting on appearance docket all papers mailed;
  - (F) Certificate for attorney's fee;
  - (G) Certificate for stenographer's fee
  - (H) Preparing cost bill;
  - (I) Entering on indictment any plea
  - (J) Entering costs on docket and cash book.
- B. Two dollars for taking each undertaking, bond, or recognizance;
- C. Two dollars for issuing each writ, order, or notice, except subpoena;
- D. Two dollars for each name for issuing subpoena, swearing witness, entering attendance, and certifying fees;
- E. Twenty-five dollars for calling a jury in each cause;
- F. Two dollars for each page, for entering on journal, indexing, and posting on any docket;
- G. Three dollars for each execution or transcript of judgment, including indexing;
- H. One dollar for each page, for making complete record, including indexing;
- I. Five dollars for certifying a plat recorded in the county recorder's office;
- J. Five dollars for issuing certificate to receiver or order of reference with oath;
- K. Five dollars for entering satisfaction or partial satisfaction of each lien on record in the county recorder's office, and the clerk of courts' office;
- L. One dollar for each certificate of fact under seal of the court, to be paid by the party

- demanding it;
- M. One dollar for taking each affidavit, including certificate and seal;
  - N. Two dollars for acknowledging all instruments in writing;
  - O. Five dollars for making certificate of judgment;
  - P. Ten dollars for filing, docketing, and endorsing a certificate of judgment, including the indexing and noting the return of the certificate;
  - Q. Twenty-five dollars for each cause of action for each judgment by confession, including all docketing, indexing, and entries on the journal;
  - R. Five dollars for recording commission of mayor or notary public;
  - S. One dollar for issuing any license except the license issued pursuant to section 1533.101, 1533.11, 1533.13, and 1533.32 of the Revised Code;
  - T. Fifteen dollars for docketing and indexing each aid in execution or petition to vacate, revive, or modify judgment, including the filing and noting of all necessary documents;
  - U. Twenty-five dollars for docketing and indexing each appeal, including the filing and noting of all necessary documents;
  - V. A commission of two per cent on the first ten thousand dollars and one per cent on all exceeding ten thousand dollars for receiving and disbursing money, other than costs and fees, paid to or deposited with the clerk of courts in pursuance of an order of court or on judgments including moneys invested by order of the court and interest earned on them;
  - W. Five dollars for numbering, docketing, indexing, and filing each authenticated or certified copy of the record, or any portion of an authenticated or certified copy of the record, of an extra county action or proceeding;
  - X. Two dollars for each certificate of divorce, annulment, or dissolution of marriage to the bureau of vital statistics;
  - Y. Two dollars for each electronic transmission of a document, plus one dollar for each page of that document. These fees are to be paid by the party requesting electronic transmission;
  - Z. One dollar for each page, for copies of pleadings, process, record, or files, including

certificate and seal.

Copies- 1 to 49, .25 per page- 50 or more, .10 per page

## **RULE NUMBER 4**

### **NOTARY PUBLIC**

All persons desiring to become a Notary Public, or those desiring to renew their commissions as Notary Public, shall secure an informational packet from the Clerk of Courts which contains an Application and Examination for Certification, and a copy of the Revised Code of Ohio Governing Notaries Public.

Upon completion of the Application and Examination, applicants shall schedule an appointment with the Court Administrator or Deputy Court Administrator for review of the Examination. A score of ninety percent or better is required for passing. Upon obtaining a passing grade, the Court Administrator will complete the necessary paperwork for approval of the Notary Public Commission and submit same to the Judge for signature. The paperwork will then be forwarded to the Clerk of Courts for submission to the State of Ohio Notary Commission.

## **RULE NUMBER 5**

### **MAGISTRATES**

Domestic relations matters and other matters relating thereto may be heard by a Magistrate appointed by this Court.

#### **MAGISTRATE'S DECISION**

A magistrate will issue his decision after the trial or hearing in accordance with this rule; however, the magistrate may require briefs, proposed findings of fact and conclusions of law or other memoranda be submitted by counsel prior to the issuance of the report.

#### **OBJECTIONS**

Objections to the decision of the Magistrate and the court disposition of same shall be governed by Ohio Civil Rule 53.

The merits of objections relating to factual findings will not be considered unless a transcript is filed with the Court within 30 days after objections are filed or within such period otherwise designated by the Court.

The time for filing objections may be extended upon the written request of either party,

provided the request is made during the initial objection period. Requests for extensions of time in which to file objections to a magistrate's decision must include the specific nature of the objections and the bases for them.

Extensions of time to file objections which are granted shall automatically extend any response time by the same period.

Transcripts supporting objections shall be filed with the court within 30 days after the filing of objections.

If additional objections become apparent after the transcript is prepared and filed with the court, and that party has timely filed his/her initial objections, the objecting party may seek leave of court to supplement previously filed objections.

It shall be the objecting party's or their attorney's responsibility to have the transcript filed within the required thirty-day period. Any requests to extend the period for filing the transcript must include the following information:

1. A statement by the attorney, or party if appearing pro se, that the court reporter who will be preparing the transcript has been contacted, the transcript ordered, and the date the transcript was ordered; and
2. A statement by the attorney, or party if appearing pro se, that (i) the costs or fees required by the court reporter for the preparation of the transcript have been paid and the date payment was made, or (ii) the estimated cost has been requested but not yet received and the date the estimate was requested, or a written statement from the court reporter that the transcript cannot otherwise be prepared within the necessary thirty-day period.

Unless a formal hearing is deemed necessary by the Court, objections shall be ruled upon by the Court without formal hearing.

## **RULE NUMBER 6**

### **GENERAL CASE MANAGEMENT RULES**

The following General Case Management Rules are applicable in all Civil, Criminal and Domestic Relations Cases.

## MOTIONS

1. All motions to the Court shall be made in writing and shall be accompanied by a written memorandum containing the statement of facts and the legal arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure, and further shall comply with Criminal Rule 47. Motions shall be set for oral hearing only upon request of counsel or by order of the Court. Otherwise, all motions will be deemed submitted when filed. Pretrial motions, where applicable, shall toll the time within which the Defendant must be brought to trial until a judgment entry is filed reflecting the Court's decision as to said motion. (See ORC Section 2945.72(H)).
2. An issue or case shall be submitted to the Court for decision without briefs unless the Court requests briefs, or grants a request of counsel to present briefs.
3. All motions filed in civil cases shall be submitted to the Court on brief or memoranda. When oral argument or testimony is desired, the motion shall contain a request for assignment of hearing.
4. In all motions directed to the Court, unless otherwise provided in the Rules of Civil Procedure, the failure of the party against whom a motion is directed to file a brief or memorandum in opposition within fourteen (14) days from the date of service of such motion, may be construed by the Court as an admission that the motion may be granted.
5. When requested by a party or by the Court, briefs shall be submitted to the Court by the plaintiff or moving party within fourteen (14) days, and by the opposing party within fourteen (14) days thereafter. A reply brief, if appropriate, will be filed within seven (7) days thereafter. The Court may extend or shorten the time for good cause. Upon failure of either party to file a brief within time, the case may be disposed of without the assistance of briefs.
6. The Court, on its own motion, may set any motion for oral argument or testimony.

## **EX PARTE COMMUNICATIONS WITH THE COURT**

Copies of all correspondence addressed to the Court by any party or counsel shall be mailed or furnished to other counsel or parties in the case, and the correspondence to the Court should disclose to whom it was furnished. The Court will disregard correspondence not in compliance with this rule.

## **WITHDRAWAL OF COUNSEL**

Counsel shall withdraw from a case in writing. If the withdrawal is with the approval of the party, said approval shall be endorsed upon the withdrawal when filed. If approval has not been obtained, proof of service of a copy of the motion on the party for which the withdrawing attorney represents shall be endorsed upon the motion and the same shall be set for hearing, of which all parties and counsel shall be notified.

Withdrawal of counsel shall be permitted for any good and sufficient reason. Upon permitting withdrawal of counsel, the Court will make such order respecting scheduling of the case and obtaining new counsel as will serve the interest of justice.

If counsel for a party shall die or formally enter withdrawal from a case, a party shall have 14 days in which to secure new counsel. During such time, no actions will be taken in said cause unless the Court shall determine that suspension shall work an injustice to the opposite party. Upon application of the parties, said time may be extended. If a party fails to procure counsel within 14 days or fails to move the Court for an extension, all pending actions will be assigned as in any other case, and the case will proceed. All notices of assignment shall be filed with the Clerk and made a part of the original papers and will be deemed notice to the party without counsel.

Any counsel formally withdrawing from a case shall advise the party to the action of this rule by furnishing a written copy of such rule to the party.

## **STIPULATIONS**

Stipulations and private agreements of counsel or parties concerning the progress or management of any matter touching the case, not made in open Court will not be recognized unless the same is reduced to writing and signed by parties thereto.

## **CONTINUANCES**

1. No continuance of a court proceeding or hearing will be granted except upon written application to the Court supported by evidence of good cause for such continuance. Motions for continuances, except for extreme emergencies, must be made at least seven (7) days prior to such proceeding or hearing and shall only be granted upon order of the Judge or Magistrate.
2. Motions for continuances shall set forth the reason for the continuance, and be accompanied by a time waiver and an appropriate journal entry which shall contain a signature line bearing the signature or telephone approval of opposing counsel or indicating refusal of same. Motions for continuances filed due to a scheduling conflict with another court, shall be accompanied by a copy of the court issued assignment notice of the conflicting hearing. It shall be the duty of counsel to contact the assignment commissioner to schedule a mutually agreeable date and time to continue the matter to. (Ohio Rule of Civil Procedure 41 )
3. Motions for continuance based upon the absence of a witness must be supported by evidence of reasonable diligence on the part of counsel to find and produce said witness.
4. If a continuance of a jury trial is granted, and the jury has been summoned, the expense of calling such jury will be borne by the party requesting the continuance.

## **SUBPOENAS**

Except for good cause shown, the Clerk shall not be required to issue subpoenas, nor the Sheriff required to serve the same, unless requests are filed with the Clerk at least 24 hours prior to the time set for trial.

The Clerk of Courts shall not be required to issue subpoenas in a civil or domestic relations case unless the party so requesting the issuance of a subpoena shall have deposited sufficient funds with the Clerk to pay witness fees as required by Revised Code Section 2335.06.

## **RULES OF TRIAL**

### **EXAMINATION OF WITNESSES- OBJECTIONS**

Only one counsel for each party will be permitted to examine a witness and the same counsel will be the only one permitted to object during the cross-examination of that witness at the trial of a case. A witness, once dismissed from the stand, will not be called to testify further until all of the other testimony for the same party has been given, except by Order of the Court.

#### **COURTROOM PROCEDURE**

1. No photographic, television, recording, broadcasting, telephone equipment or devices shall be used within the confines of all Court controlled areas of the Courthouse except for official business purposes, and unless approved by the Court for trial related proceedings and unless such action is approved by the Court pursuant to Canon 3A of the Code of Judicial Conduct, and Rule 12 in its entirety of the Rules of Superintendence for Courts of Ohio.
2. Spectators and others will be seated in the courtroom on a first come, first served basis in seats that are provided behind the rail and shall remain there until such time as the Court declares a recess or adjournment.
3. No persons within the courthouse, other than peace officers on official business, shall have on their person or under their control any dangerous weapon or dangerous ordnance. Any person within the confines of the courthouse shall be subject to search at any time by the Sheriff of Hardin County, Ohio, or his/her deputies. The Sheriff and his/her deputies are further directed to search any and all spectators at their discretion
4. The courtroom shall be cleared at all noon recesses.
5. Representatives of the media will, under no circumstances, question or converse with prospective or selected jurors concerning a cause set for trial during the pendency of the matter.
6. No person except officers of the Court and duly authorized persons shall be permitted in front of the railing or bar of the courtroom.
7. There shall be no eating, drinking or smoking in the courtroom unless permitted by the Court.

8. The Court may promulgate and enforce such other rules as may be necessary to maintain the decorum of the Court.

### **COURTROOM DRESS**

Counsel will insure that their clients and all witnesses appearing in matters before the Court are appropriately attired. Failure to dress appropriately could result in the matter being continued until such person is appropriately attired.

### **EXHIBITS**

Counsel shall have all exhibits, with the exception of recently discovered evidence, marked prior to the commencement of trial. In addition, counsel offering exhibits for evidence shall have sufficient copies to distribute to opposing counsel, the Court, and if applicable, copies for substitution in place of any original documents. The Court Administrator will not be responsible for making copies of exhibits to return to the parties at the conclusion of a proceeding.

### **CONDUCT AT TRIAL**

1. Trial counsel shall meet in chambers with the Court on the first day of a trial at least 15 minutes before the time set for trial.
2. Except when making objections during testimony, counsel shall rise and remain standing when addressing the Court or Jury.
3. Witnesses shall be expected to take the stand in all cases, unless prevented from doing so by physical infirmity. A witness not a party, when examined, cannot be recalled without express permission of the Judge or Magistrate.
4. The Court Administrator shall be the official custodian of all exhibits offered and admitted during the trial of any cause; the same shall be retained by him/her until otherwise ordered by the Court.
  - a. After a judgment and appeal, or after appeal time has expired without appeal, counsel for each party shall, upon issuing a receipt to the Court Administrator therefore, obtain return of exhibits introduced into evidence by such counsel save and except contraband, which shall be disposed of in

accordance with law, and cause them to be returned to the owner. In cases of doubtful ownership of the exhibits, counsel shall bring the matter before the Court for determination.

5. Preliminary to the trial of the cases assigned for trial, counsel upon request of the Court shall file a brief on all questions of law, including evidence involved in the proceeding, which briefs shall be exchanged by counsel.
6. Any party or their counsel who requests a view of the premises or scene must make a request in writing for such not later than seven (7) days prior to the scheduled date of trial. No request will be honored if made with less than seven (7) days notice. View requests will be granted only upon a showing to the Court that it will expedite or make the testimony of witnesses more understandable, and that it is necessary in the interest of substantial justice.

## **BANKRUPTCY**

Whenever any party to an action pending in this court files bankruptcy, the attorney for same or the party, if acting in a pro se capacity, shall within five (5) days of the date of filing bankruptcy, file with the Court a copy of the "Notice of Bankruptcy Case Filing" along with a Judgment Entry granting stay and further provide notice of such filing to all unrepresented parties and counsel of record in conformance with Civil Rule 5.

The party or attorney filing the initial notice shall upon receipt of document(s) evidencing termination of the automatic stay by reason of dismissal of the bankruptcy petition, discharge of debtor(s), the granting of relief from stay by the bankruptcy court, or otherwise shall immediately file same with this court in order that said cause may continue.

## **RULE NUMBER 7**

### **CASE MANAGEMENT FOR CRIMINAL CASES**

The purpose of this rule is to establish a system for speedy disposition and management of criminal cases which will also provide for the fair and impartial administration of justice. These rules shall be construed and applied to eliminate unnecessary delay and to improve the

administration of justice to all parties

### **SCHEDULING OF PROCEEDINGS**

Upon appearance at arraignment, or upon the filing of a not guilty plea, the scheduling of further proceedings begins in accordance with the following guidelines.

1. **ARRAIGNMENT:**

A. At arraignment all cases shall be assigned a trial date.

2. **PRETRIALS:**

A. At, or after, arraignment for all cases, a pretrial shall be scheduled by defense counsel and the prosecutor. Pursuant to Criminal Rule 17.1, a request or demand for a pretrial shall be construed as a motion for pretrial, and as such, shall toll the time within which the defendant must be brought to trial, pursuant to ORC Section 2945.72(H).

B. The pretrial shall be conducted in accordance with Criminal Rule 17.1. Any attorney, or party, who fails to appear for pretrial without just cause may be punished for contempt of court or as otherwise sanctioned in accordance with law.

C. If after the conclusion of the pretrial the case is not settled, and if the matter has not previously been set for trial, the assignment commissioner is directed to set the matter for jury trial.

3. **PLEA:**

A. Once a plea date is set, no continuance of said plea date shall be granted unless a written motion and order is filed and provided to the Court setting forth the reasons for the continuance.

B. If a pre-sentence investigation is conducted, the matter shall be set for a sentencing hearing within approximately thirty days unless otherwise Ordered by the Court.

4. **PROBATION; POST TRIAL COMPLIANCE MATTERS:**

A. Any Defendant who is placed on probation must report to the probation officer at the appropriate time and place to register for said probation. Failure of any Defendant to report as required may result in reimposition of a jail sentence or a citation alleging contempt of court, for which the Defendant may also be fined and jailed.

5. **COMMUNITY CONTROL SUPERVISION SERVICES FEES**

A. Defendants placed on community control supervision shall pay probation services fees of \$50.00 per indictment.

**RULE NUMBER 8**

**BAIL - FINES AND COSTS**

1. The following shall constitute the schedule of bonds to be used for the release of person's before their appearance before the Court:

**Misdemeanors:**

a.	Minor misdemeanor	\$ 500.00
b.	Fourth degree misdemeanor	1,000.00
c.	Third degree misdemeanor	1,500.00
d.	Second degree misdemeanor	2,000.00
e.	First degree misdemeanor	2,500.00

In all cases, the above shall be a cash or surety bond until appearance before the court.

Unless otherwise specifically ordered by the Court, all monies for bail shall be deposited and accepted in the name of the defendant only.

When a defendant in a criminal case has been found guilty, all posted bail money shall be applied first to restitution, then to court costs and fines in the oldest criminal cases in which said defendant has an outstanding balance and shall next be applied to reduce arrearage in more recent criminal cases in like manner until all outstanding arrearages have been paid unless otherwise ordered. Any bail money remaining after the foregoing payments will be returned to the defendant.

All monies paid after conviction by or for a person convicted of an offense will be applied in the manner above described unless otherwise ordered.

**BAIL OR SURETY**

No attorney at law or other officer of this Court shall be accepted or received as bail or surety on any undertaking of any kind in this court, nor shall any bond or undertaking be approved having the name of any such person thereon as surety.

**BAIL BONDSMEN**

Any person wishing to be eligible to post bail bonds in this court shall file with the Clerk a copy of his/her qualifying power of attorney by the first of August of each odd numbered year.

Each agency must annually file a certificate of compliance.

A copy of each agent's license must accompany an agencies original filing.

All agents posting a bond are required to furnish a signed power of attorney and produce a state issued bail license. If an agent cannot produce a state bail license, the Clerk will not accept the bond.

**RULE NUMBER 9**

**COURT APPOINTED COUNSEL**

1. All attorneys in private practice in Hardin County, except those who notify the court of their desire to not be so included, and interested out of county attorneys in private practice, with the exception of the Prosecuting Attorney, his/her assistants, the Kenton City Law Director, his/her assistants, and their associates, shall be entered on the list of counsel available for appointment.

2. In order to be added to the court appointed counsel list, an interested attorney must submit such request in writing and provide the court with a copy of his/her Ohio Supreme Court registration card.

3. Attorneys must agree to meet clients in Hardin County in order to receive appointments.

4. Any attorney wishing to be removed from the court appointed list shall be excused from said service upon written request made to the Court.

5. Appointment shall be made by the Court on a rotating basis except that appointments may be made out of rotation in order to avoid conflicts of interest, conflicts with counsel's schedule, conflicts with the Court's schedule, and in instances where the gravity of the offense requires counsel with greater experience than the person next on the list. (Ohio Supreme Court Rule of Superintendence 8)

6. **COMPENSATION:**

- A. Assigned counsel shall receive compensation for professional services and shall be reimbursed for expenses in accordance with section 2941.51, Ohio Revised Code. In all cases, and upon the completion of the service, it shall be the duty of such assigned counsel, within 90 days, to submit an itemized statement upon forms approved for such purpose, of the services rendered and the time spent in connection with said services in the preparation and trial or other disposition of the same, and any out of pocket expenses incurred therein. The Court reserves the right to have counsel submit a detailed statement to clarify their billing statements. Upon approval by the Court, the same shall be transmitted to the Hardin County Auditor.
- B. The Court, after due consideration of such statement, shall determine the amount of compensation within the statutory limit thereon, in accordance with schedule of fees adopted from time to time by the Board of County Commissioners of Hardin County. No fees or expenses in excess of the maximum prescribed therein will be allowed without approval by the Court.

**RULE NUMBER 10**

**CASE MANAGEMENT FOR CIVIL CASES**

1. **PURPOSE:** The purpose of this rule is to establish a system for the speedy resolution or disposition of all civil cases, which will also achieve and promote the fair and

impartial administration of justice.

2. **SCHEDULING OF EVENTS:** The scheduling of a case begins when it is filed. Thereafter, all civil cases shall be governed by the following procedures:

**SERVICE:**

- A. Summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the clerk shall notify counsel immediately. If service is not complete within six months, pursuant to Civil Rule 4(E), the Court will notify plaintiff's counsel directing that unless service is obtained within fourteen (14) days, the case will be dismissed. Fourteen (14) days after such notice, the action will be dismissed if service has not been obtained.
- B. Upon perfection of service, Counsel shall be required to submit a default entry within ten (10) days of notification, otherwise the case may be dismissed.
- C. If no action has been taken on a case for a period of six (6) months or more, and the case has not been set for trial, the Court shall notify the party or parties that the case will be dismissed within ten (10) days unless good cause is shown.
- D. When a file has been marked "settlement entry to be forwarded to the court" and the entry has not been received within thirty (30) days of said note, the Court shall notify the parties that the case will be dismissed unless that entry is received within ten (10) days.
- E. The court hereby adopts the following locations for posting of service;
  - a. The Kenton City Building;
  - b. The Hardin County Courthouse Annex Building

**JUDICIAL REVIEW:**

- A. After an answer or final responsive pleading is filed, the Clerk will

forward the case file to the Court for review. The Court will review the file to determine if a status conference is necessary. Said status conference may be conducted in person, or by telephone if requested by the parties in writing or directed by the Court. In the event that a telephone status conference is requested, the party making such request will be responsible for initiating such telephone conference and shall have all parties on the line prior to contacting the Court.

**STATUS CONFERENCES AND FINAL PRETRIALS:**

1. For the purpose of this rule, status conference, shall mean a conference chiefly designed to set discovery deadlines, discuss disputed issues, and the possibility of settlement and to set a trial date.
2. For the purpose of this rule, a "final pretrial" means a court supervised conference chiefly designed to resolve any trial issues. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, and their attorneys of record, if any.
3. Any attorney or party who fails to attend a scheduled status conference or final pretrial conference without just cause may be punished for a contempt of court, or otherwise sanctioned in accordance with Rule of Civil Procedure 37.
4. Notice of status conference or final pretrial shall be provided to all counsel of record or parties by mail, fax or by telephone from the assignment commissioner prior to said conference. Any application for continuance of said conference shall be addressed to the Court by motion.
5. Counsel attending a status conference or final pretrial conference must have their parties present, or have full settlement authority. Corporations shall be represented by an officer or employee having knowledge of the factual matters to be tried and who is authorized to act on behalf of said corporation.
6. Counsel attending a status conference shall be prepared to:
  - A. Freely discuss the theory or theories of their case, both factual and legal.

- B. Discuss the necessity or desirability of amendments to any pleadings or the filing of additional pleadings.
- C. Discuss simplification of the issues.
- D. Make admissions as to the facts and genuineness of documents and other exhibits which are not in dispute.
- E. Eliminate parties unnecessary to the case.
- F. Give the names and addresses of witnesses whom they intend to call, and state the general nature of their testimony. The refusal or failure of any counsel to disclose a witness at least ten (10) days before trial shall render evidence by that witness inadmissible at trial. This shall not apply to rebuttal witnesses.
- G. Give the number and nature of exhibits they intend to introduce, and produce them for examination by the Court or parties.
- H. Give the names, addresses and specialties of any anticipated expert witnesses; unless disclosure of such witnesses has been previously ordered.
- I. Exchange reports of expert witnesses expected to be called by the parties.
- J. Exchange medical reports and hospital records.
- K. Discuss limitations on the number of expert witnesses.
- L. Discuss the necessity of supplementing interrogatory answers or other previous discoverable matters.
- M. Discuss procedures and time limitations for the completion of any further anticipated discovery.
- N. Submit and consider authorities on unique or controversial issues, or guarantee their submission at least one week prior to trial.
- O. Discuss any other matters that may expedite the trial or disposition of the case.
- P. File requests for admission, interrogatories and depositions, and all other

discovery material.

- Q. Schedule further hearings. Counsel shall have their calendars available at all hearings.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

When a request for Findings of Fact and Conclusions of Law is made pursuant to Rule 52 of the Civil Rules of Practice, the Court shall require any and all parties to submit their proposed Findings of Fact and Conclusions of Law.

Such request shall be made pursuant to Rule 52 and within the time limitations noted thereon.

### **SUMMARY JUDGMENT**

Upon the filing of a motion for summary judgment, the Court will issue a notice fixing a hearing date. The opposing party, prior to the day of hearing may serve and file opposing affidavits. Oral arguments shall be considered waived unless any party requests oral arguments in writing, and the motion shall be considered submitted on the date scheduled for the hearing or any continuance of the hearing granted in writing by the Court.

In any memorandum accompanying such motion, counsel shall refer to specific paragraphs, lines, and pages of any pleading, interrogatories, affidavits, depositions or other documentary evidence which counsel wishes the court to consider.

### **JUDGMENT ENTRIES:**

- A. Counsel for the party in whose favor an order or judgment is rendered shall prepare the appropriate journal entry unless the Court directs otherwise. That entry shall be submitted to opposing counsel within five (5) days of the Court's decision. Opposing counsel shall approve or reject the entry within five (5) days thereafter. Within fifteen (15) days of the Court's decision, the journal entry shall be submitted to the judge, or, thereafter, the Court will be free to prepare its own journal entry.
- B. The avoidance of trial by settlement of the parties shall be allowed without appearance so long as an entry reflecting the settlement of the case is filed within

thirty (30) days of the date set for trial. If the parties fail to file said entry in a timely fashion, the case may be dismissed by the Court on its own motion for want of prosecution. All journal entries settling cases shall state which party will pay the costs, and said entry will not be filed by the Clerk until all costs are paid.

## **RULE NUMBER 11**

### **PROCEEDINGS IN AID OF EXECUTION**

1. Orders in aid of execution shall be served and scheduled pursuant to law and the Civil Rules.
2. A praecipe requesting an order in aid of execution shall be accepted by the clerk for preparation of the execution. Praecipos for Execution must contain a specific description of the property to be levied on. This description shall be a part of the Writ issued to the Sheriff pursuant to Section 2327.02 and Section 2327.01 of the Revised Code. The Sheriff is authorized to return a Writ of Execution to the Clerk for failure to comply with this rule.
3. In the event a judgment creditor or the creditor's attorney fails to appear for the examination of a judgment debtor who does appear, the presence of the debtor will be noted on the docket and the debtor excused at the creditor's costs.
4. Except for good cause, made known to the Court, no citation in contempt for failure to appear may be issued where more than sixty (60) days have elapsed after the date on which the debtor was ordered to appear.
5. Orders in aid of execution and citations in contempt shall be prepared and filed by the party requesting the orders in a form acceptable to the court.
6. Requests for execution of other than personal earnings shall describe specifically and in detail (including model and serial numbers if known) all property to be seized on execution.
7. A copy of the notice of the sale of personal property shall be mailed by the creditor/or their attorney to all parties and to attorneys of record in the case.
8. Entries of confirmation and distribution shall be prepared by the party who requested the sale and shall contain a statement that the sale was regular and proper in every

respect unless otherwise directed by the Court, together with a statement of the balance, if any, still due on the judgment.

## **RULE NUMBER 12**

### **JURY MANAGEMENT PLAN**

It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Hardin County Common Pleas Court.

#### **1. JURY ELIGIBILITY**

- A. To ensure that the jury pool is representative of the adult population of Hardin County, Ohio, all persons are eligible to serve on a jury, except as follows:
  - a. Persons less than 18 years of age.
  - b. Persons who are not current residents of Hardin County.
- B. All reasonable efforts shall be made to accommodate prospective jurors who have special needs.

#### **2. PROCEDURE FOR JURY SELECTION**

- A. Potential jurors shall be drawn from a jury source list, which shall constitute a list of all registered voters in Hardin County by the use of random selection procedures using automated data processing equipment in conformity with Ohio Revised Code Section 2313.08, and Ohio Revised Code Section 2313.21.
- B. In December of each year, the Jury Commissioners, duly appointed by the Common Pleas Court, pursuant to Revised Code Section 2313.01, shall convene and select a venire of jurors to serve the Courts of Hardin County for the following calendar year. The jury source list shall be reviewed and unsuitable names purged from the list in accordance with the powers provided the jury commissioners by Ohio Revised Code Section 2313.01.
  - a. Each juror shall be issued a summons for their respective term of

service by the Sheriff of Hardin County. Said summons shall be prepared by the Deputy Jury Commissioner or her designee and issued to the Sheriff. Grand jurors shall be summoned for a term of six months, and Petit jurors shall be summoned for a term of two months.

- C. In the event a venire of persons drawn are insufficient to meet the needs for the court in the calendar year, the Jury Commissioners shall reconvene as necessary to select an additional venire, in accordance with Ohio Revised Code Section 2313.01
- D. If, in the opinion of the Court, this jury source list is not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law.
- E. Further, random selection processes shall be utilized to assign prospective jurors to specific venires and for assignment during voir dire.
- F. Departures from random selection shall be permitted only as follows:
  - a. To exclude persons ineligible for service.
  - b. To excuse or defer prospective jurors.
  - c. To remove prospective jurors for cause or if challenged peremptorily.
  - d. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.
- G. All prospective jurors shall be notified by regular mail of their requirement of jury service by the issuance of a summons directing them to appear on the date assigned. (See Attachment C) Further, all prospective jurors shall be required to complete a juror questionnaire (See Attachment D) and, if appropriate, a request for excusal. Said summons shall be phrased so as to be readily understood by an individual unfamiliar with the legal process. Said summons shall clearly explain how and when the recipient must

respond and the consequences for his/her failure to respond. Any person who fails to respond to a duly served summons may be served with a citation for contempt of court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

**3. SUMMONING OF PROSPECTIVE JURORS**

- A. Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases, a jury deposit of One Thousand Fifty Dollars (\$1,050.00) shall be assessed. If the jury demand is made upon the filing of a complaint or made upon the filing of a responsive pleading, One Hundred Dollars (\$100.00) of the deposit shall accompany said pleading. An additional deposit of Nine Hundred Fifty Dollars (\$950.00) shall be tendered no less than four weeks before trial date providing that the jury trial is expected to last only one day. If the jury trial is expected to exceed one day, an additional deposit will be required in the amount of \$30.00 per juror, including alternate juror(s), per day. In the event either deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to trial by jury. A person determined to be indigent may petition the court for a waiver of the jury deposit requirement.
- B. In criminal cases, no deposit shall be required.
- C. Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of thirty five (35) persons per trial shall be summoned unless the court determines that a lesser or greater number is necessary for a particular trial.
- D. Every effort shall be made to resolve cases prior to summoning juries. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial. The Court Administrator shall contact

counsel, or the parties, whichever is appropriate, at least three weeks prior to the scheduled trial date to provide a cut-off date for counsel to advise whether or not a jury should be summoned. In criminal cases, failure of counsel to notify the Court Administrator of whether or not a jury should be summoned by the cut-off date will result in the summoning of a jury with the costs of same being taxed as court costs. If it appears that trial is inevitable, a jury panel shall be summoned at least fourteen (14) days in advance of trial. In civil cases, no jury shall be summoned without the posting of the above required deposits by the party requesting a jury trial.

- E. In cases where multiple trials are set for the same date, jury costs shall be assessed to the last trial settled on that date. If a trial is settled on the day of the trial, all lawful jury costs shall be assessed against the party who requested the jury.
- F. Persons summoned for jury service shall receive compensation in the amount of Thirty Dollars (\$30.00) per day. Such fees shall be promptly paid from the County Treasury.
- G. Any juror wishing to waive his/her fee for service shall be permitted to do so in writing at the Clerk's office. All waived fees shall be returned to the County Treasury.
- H. The term of service for any prospective panel shall be one day, or the completion of one trial, whichever is longer.

**4. EXEMPTION, EXCUSE, AND DEFERRAL**

- A. All persons, except those who exercise their right to exemption, are subject to service. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant

hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excusal must be made in writing, and shall be accompanied by appropriate documentation. Requests for excusal based upon a medical or mental condition must provide documentation from a physician verifying that the condition renders the prospective juror incapable of performing jury duty for a period of up to 24 months. For a financial hardship excuse, the prospective juror must demonstrate an adverse impact upon the ability to pay daily living expenses. All documents shall be retained by the Clerk of Courts for a period of one (1) year from the expiration of the juror's term.

- B. The following facts constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service:
- a. Any person who suffers from a substantial physiological or psychological impairment.
  - b. Any person who suffers from a medical impairment.
  - c. Any person who has a scheduled vacation or business trip during potential jury service.
  - d. Any person for whom service would constitute a substantial economic hardship.
  - e. Any person for whom service on a jury would constitute a substantial hardship on their family, clients, or members of the public affected by the prospective jurors occupation.
  - f. Any person who has served on a jury within the last year.
  - g. Any person for whom it may be readily determined is unfit for jury service.
  - h. Any person for whom it may be readily apparent would be unable to perform their duty as a juror.

- I. Any person over seventy-five (75) years of age.
  - j. Any person who is a cloistered member of a religious organization or an active member of a recognized Amish sect.
  - k. Other valid excuse.
- C. No person shall be excused from jury service, except by the Judge or an individual specifically authorized to excuse jurors. Once a prospective juror has submitted his/her request for excusal, the prospective juror must report for service unless otherwise notified by the Clerk of Courts.

**5. EXAMINATION OF PROSPECTIVE JURORS**

- A. Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.
- B. All prospective jurors shall be placed under oath in accordance with the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires.
- C. Juror questionnaires indicating basic background information concerning panel members shall be made available to counsel in the Clerk of Court's Office as they are returned by prospective jurors. Counsel is permitted to record or note the information contained on the questionnaires, except addresses and telephone numbers. For the protection of the jurors, no questionnaire may be removed from the court facility. Under no circumstances may counsel or a party retain any juror questionnaire. All questionnaires shall be retained by the Clerk of Courts for a period of one (1) year from the expiration of the juror's term.
- D. Neither counsel nor party will be permitted to question prospective jurors as to matters contained in the questionnaire. Parties and counsel may be permitted to ask follow up questions concerning such information.

- E. The Court shall conduct a preliminary voir dire examination concerning basic and relevant matters, and counsel shall be permitted a reasonable period of time to question panel members thereafter. Counsel or parties shall conform their voir dire questioning to the following rules:
- a. Counsel may not examine prospective jurors concerning the law or possible instructions.
  - b. Counsel may not ask prospective jurors to base answers on hypothetical questions.
  - c. Counsel may not argue the case while questioning prospective jurors.
  - d. Counsel may not engage in efforts to indoctrinate prospective jurors.
  - e. Prospective jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from prospective jurors.
  - f. Questions are to be asked collectively of the panel whenever possible.
  - g. Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
- F. In the event there exists a potential for sensitive or potentially invasive questions, the Court or the parties may request a hearing preceding voir dire to consider these questions.
- G. In all cases, voir dire shall be held on the record, but may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment.
- H. If it is determined by the court during the voir dire process that an individual is unable or unwilling to sit in a particular case fairly and

impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented, or upon the motion of the court. Further, Ohio Revised Code Section 2313.42 and Ohio Criminal Rule of Procedure 24(B) set forth additional cause challenges which may be made against potential jurors.

- I. Peremptory challenges shall be exercised alternatively as presently established by Revised Code Section 2945.23, and Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open court. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall be no limit to challenges for cause, however peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure.
- J. Challenges to the jury array shall be made in accordance with established rules or procedure.
- K. In criminal cases, the jury shall consist of twelve regular jurors and one alternate juror. In civil cases, the number of jurors shall be by agreement unless no agreement can be reached, then the Rules of Civil Procedure shall apply. In special circumstances, additional alternate jurors may be selected.

**6. JURY ORIENTATION**

- A. Jurors shall report for service no later than 8:45 a.m., unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the Court before the completion of orientation. No motions shall be entertained by the Court the day of trial, except those which the Court must consider by law or by rules of procedure.
- B. Prospective jurors shall be provided with written orientation materials

upon their initial appearance and prior to service. The Court shall give preliminary instructions to all prospective jurors, as well as additional instructions following the impaneling of the jury to explain the jury's role, trial procedures of the court, along with other basic and relevant legal principals.

- C. Upon the completion of the case, and prior to jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations. In accordance with Civil and Criminal Rules of Procedure, the parties or their counsel may request that special instructions be given to the jury.
- D. All jurors may be permitted to take notes during the course of the presentation of evidence after proper instruction by the Court. Upon agreement of counsel, jurors shall be permitted to ask questions of witnesses subject to court approval, and upon appropriate instruction.
- E. Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such court personnel for appropriate action.
- F. All communications between the judge and the members of the jury panel, from the time of report to the court through dismissal, shall be committed to writing or placed on the record in open court. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communications. Under no circumstances shall counsel, a party, or other witnesses have any contact with jurors.
- G. All jury deliberations shall be conducted in the jury deliberation room. Jury deliberation rooms shall include furnishings and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities

so as to minimize contact between jurors, parties, counsel and public.

Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be permitted to leave the court without permission.

- H. Deliberations shall not continue after a reasonable hour, unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors, and are required in the interest of justice. Jurors shall be consulted prior to any decision.
- I. If jury deliberations are halted, jurors shall be permitted to be separated, unless for good cause shown, the court finds that sequestration is necessary. If a jury is sequestered, the court shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors.
- J. Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.
- K. Upon the completion of service, each juror shall be given a personalized certificate of appreciation. (See Attachment E)

## **7. CONCLUSION**

- A. The court shall collect and analyze information regarding the performance of this jury management plan to evaluate the representatives of the jury pool; the effectiveness of individual citizens to jury summons; the efficient use of jurors; the cost effectiveness of this plan; and overall jury satisfaction.
- B. To achieve these goals, the court shall adopt and utilize a juror exit survey. (See Attachment F)

## **RULE NUMBER 13**

## **MEDICAL NEGLIGENCE ARBITRATION**

(Ohio Revised Code SECTION 2711.21)

### **SELECTION OF ARBITRATORS**

In all cases subject to arbitration, the members of the panel shall be appointed as follows:

1. Counsel for the Plaintiff and Defendant shall furnish to the Court Administrator the name of the member of the panel to be appointed by them respectively within thirty (30) days after the order to arbitration has been filed by the Court.
2. If there is a failure of one or more parties to appoint one or more arbitrators or arbitrators, the Court shall appoint an arbitrator pursuant to Ohio Revised Code Section 2711.04.
3. Within forty-five (45) days after the order for arbitration has been filed, the Judge shall designate the arbitration panel chairman.

### **HEARINGS; WHEN AND WHERE HELD; NOTICE**

- A. Hearings shall be held at a place scheduled by the Court Administrator. This provision shall not, however, limit the right of the arbitration panel to hold hearings in an appropriate place of their own choosing. No hearing shall be fixed for Saturdays, Sundays, legal holidays or evenings, except upon agreement of all parties and the arbitrators.
- B. Since sufficient time is available to the parties prior to the hearing date to settle or compromise a dispute once a hearing date is set, the hearing shall proceed forthwith at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of the hearing.

### **OATH OF ARBITRATOR**

All persons designated as arbitrators shall be sworn prior to the commencement of their duties.

### **DEFAULT OF A PARTY**

The arbitration may proceed in the presence of any party, who, after due notice, fails to be

present or fails to obtain an adjournment. An award shall not be made solely on the default of the party; the panel shall require the other party to submit such evidence as they may require for the making of an award. If neither party appears at the time set for the arbitration hearing, the award shall be one dismissing the action for want of prosecution subject to the right to recommence pursuant to law.

### **CONDUCT OF HEARING; GENERAL POWERS**

- A. The three members of the panel shall be the judges of relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrators, of all the parties, except where any of the parties is absent, in default, or has waived the right to be present. In addition to oral testimony, the panel may receive the evidence of witnesses by affidavit, deposition, video-tape deposition, interrogatories, or written report and shall give it such weight as the panel deems is justified after consideration of any objections which may be made to such evidence. In the instance of affidavits and written reports, copies shall be furnished to counsel for all parties not less than two weeks in advance of hearing.
- B. Counsel shall, upon request and whenever possible, produce a party or witness at the hearing without the necessity of a subpoena.

### **SPECIFIC POWERS**

The panel shall have the general powers of a Court, including, but not limited to, the following powers:

- A. **SUBPOENAS:** To cause the issuance of subpoenas to witnesses to appear before the Board and to request the issuance of an attachment according to the practice of the courts for failure to comply therein.
- B. **PRODUCTION OF DOCUMENTS:** To compel the production of all books, papers, and documents which they shall deem material to the case.
- C. **ADMINISTERING OATHS; ADMISSIBILITY OF EVIDENCE:** To

administer oaths of affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by the depositions and decide the law and the facts of the case submitted to them.

### **SUPERVISORY POWERS OF COURT**

The Judge of the general division of the Court of Common Pleas shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in application of these rules.

### **WITNESS FEES**

Witness fees shall be in the same amount as now or hereafter provided for witnesses in trials in the Hardin County Common Pleas Court, which shall be taxed as costs.

### **TRANSCRIPT OF TESTIMONY**

The arbitrators shall not be required to make a transcript of the proceedings before them. If any party shall desire a transcript, he/she shall provide a reporter and cause a record to be made. The party requesting the same shall pay the cost thereof which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided with it by the reporter upon payment therefore, based upon the customary charges made.

### **REPORT AND AWARD**

Within thirty (30) days after the hearing, the chairman of the panel shall file a written report and award the Clerk of the Court of Common Pleas and on the same day shall mail or otherwise forward copies thereof to all parties or their counsel. In the event that all three members do not agree on the finding and award, the dissenting member may submit a written dissenting opinion to be filed with the majority report.

### **LEGAL EFFECT OF REPORT AND AWARD:**

Entry of judgment of the report and award, unless rejected as hereinafter provided shall be final. If no rejection is made within the time limits and manner specified by these rules, the Court shall enter judgment in accordance therewith. After entry of such judgment, execution process may be issued as in the case of other judgments. Subsequent to the time for rejection, the judgment entry shall be submitted to the assigned judge.

If a party desires to reject the report and award, notice of such rejection must be served upon all other parties within thirty (30) days after the report and award was filed with the Court. If the report and award of the Arbitrators is timely rejected by any party, the pleadings shall be amended and filed with the Clerk of Courts within fifteen (15) days following said rejection, pursuant to Ohio Revised Code Section 2711.21. Amended pleadings shall be served on all parties pursuant to the Rules of Civil Procedure.

#### **COMPENSATION OF ARBITRATORS**

- A. Each panel member shall receive as compensation a fee of \$225.00. The Chair shall receive an additional \$75.00 (total of \$300.00) for time spent with scheduling, pre-arbitration conferences, and other time spent preparing for the case. If complex or unusual circumstances are involved, a greater fee may be paid to all the arbitrators which may be approved by the Court upon written motion.
  - a. If the case is settled less than one business day before the scheduled hearing, then a fee of \$50.00 shall be paid to each arbitrator. The Chair, or a sole arbitrator, shall receive \$75.00
  - b. Arbitrators are to be paid after the award is filed with the Clerk of Courts.
- B. If Ordered by the Court- To guarantee the arbitrators fees, the plaintiff(s) shall deposit the sum of three hundred seventy-five dollars (\$375.00) with the Clerk of Courts within twenty (20) days of receipt of the assignment notice and the defendant(s) shall deposit a like sum of three hundred seventy-five dollars (\$375.00) within twenty (20) days of receipt of the assignment notice. If there are multiple defendants and they cannot agree as to their proportionate share of the deposit, upon proper motion, the Judge shall order the apportionment. When it appears proper, the Court may order additional deposits.
- C. The chairman of the arbitration panel shall determine not less than five (5) days prior to the hearing that the proper deposit has been made. If no deposit has been made by one or both sides, the chairman shall, through the Court Administrator, schedule a show cause hearing before the Judge to whom the case is assigned to

determine why the plaintiff(s) and/or the defendant(s) should not be held in contempt for failure to file the required deposit.

- D. Payment of fees shall be authorized by the Judge by Court Entry on a form to be provided by the Court.

#### **RULE NUMBER 14**

##### **ALTERNATE DISPUTE RESOLUTION (ADR)**

It is the policy of the Court to encourage the use of Alternative Dispute Resolution (ADR) methods. The Judge shall, in appropriate cases, facilitate the use of voluntary ADR by taking any one or more of the following actions at or after the status conference or at other reasonable times during the litigation:

1. Suggesting that the parties engage in settlement negotiations and appropriately participate in such negotiations.
2. Informing the parties about the availability of early neutral evaluation programs and, upon agreement of the parties, entering appropriate orders of referral, staying proceedings up to sixty (60) days for such purpose, and implementing the results.
3. Informing the parties of the existence and benefits of the Ohio Private Judging Act, Ohio Revised Code 2701.10, and upon agreement of the parties to utilize that Act, to enter appropriate orders thereunder.
4. Referring the matter to a Mediator in those cases where mediation is deemed by the Judge to be an appropriate action. If agreement is reached, the Mediator shall prepare a written memorandum of agreement and furnish same to each party and to each attorney representing such party so that the attorney can prepare an acceptable entry for presentation to the Court. If an agreement is not reached, such fact will be reported to the Court, and the matter will be scheduled for further hearing.
5. Referring the matter, upon agreement of the parties, for arbitration by either a single arbitrator or an arbitration panel.
6. Upon request of the parties to the litigation, evidenced by a written certification of

agreement from all parties, entering such orders to refer the dispute to any other ADR method as the Judge shall deem to be consistent with the interests of justice.

No case involving equitable relief, title to real estate or administrative appeals shall be referred to ADR except by express consent of the Judge.

The arbitrator(s) and mediator shall be selected and appointed by the Judge.

### **Costs**

The Court, from mediation funds collected, shall pay the first \$200.00 of the fees of mediation, and the parties shall equally divide the remaining cost of alternate dispute resolution unless the parties agree upon or the Court orders a different division of the cost. Payment of the cost shall be paid directly to the arbitrator or mediator. In the event a party is unable to pay an arbitrator or mediator's fee, Counsel shall file an indigency affidavit and motion to waive or reduce costs. Upon filing of said paperwork, the Court shall examine the motion and issue a ruling.

### **Mediators**

To be a court approved mediator for civil cases, a mediator shall have the following minimum qualifications:

1. Completion of at least 12 hours of basic mediation training, or equivalent experience as a mediator, as is satisfactory to the Court.
2. Adherence to the Model Standards of Practice.
3. An undergraduate degree\* and at least two years of professional experience with mediating disputes.

\*The undergraduate degree requirement may be waived by the Court upon consideration of well-documented equivalent educational experience.

4. Adherence to the ethical standards of any other profession that the mediator practices or in which the mediator is licensed.
5. A commitment to continuing education.
6. Awareness of the factors affecting the propriety of mediation in particular cases.

### **Referral**

The following cases, upon completion of necessary pleadings or motions, may be referred by the Trial Judge to a mediator for a mandatory mediation conference:

1. All cases, regardless of the amount in controversy, in which the chances of settlement would be improved with mediation;
2. All cases involving replevin, attachment before judgment, garnishment before judgment, forcible entry and detainer, and motions for relief from judgment after cognovit and default judgments;
3. All cases in which all parties consent to mediation;
4. All cases as to which a continuance of the trial date becomes necessary due to the unavailability of the Trial Judge.

### **Domestic Abuse**

If the opposing parties to any case have either resided in a common residence or are related by blood, adoption, or marriage, and have known or alleged domestic abuse at any time prior to the mediation, then the parties or their counsel have a duty to disclose such information to the Court.

### **Confidentiality**

Pursuant to Ohio Revised Code Section 2317.023, all communications made during mediation are confidential and shall not be disclosed in any civil judicial or administrative proceeding, or in response to a public records request pursuant to Section 149.43 of the Ohio Revised Code, except as provided in Section 2317.023(c) of the revised code. This rule does not require the exclusion of any evidence which is otherwise discoverable merely because it is presented in the course of mediation. Further, this rule shall not preclude the Mediator from testifying as to a crime committed in his/her presence or from complying with any law requiring the reporting of child abuse. Further, the mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

### **Settlement of Case**

At the mediation conference the Mediator shall try to settle the entire case. The Mediator

may schedule, recess, or continue the conference; order monies held in trust by the Clerk; conduct a view of the scene, if applicable; issue orders; and exercise such powers as are necessary and proper for the mediation of cases. The Mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the mediator to the Court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure

### **Attorney Referral**

An attorney may request referral of the case to the Civil Mediation Program by indicating as such on the civil case information sheet when the case is initially filed with the Clerk of Courts.

### **Scheduling of Mediation**

Counsel will be notified by Court Order that the case has been referred to mediation. Counsel for the parties shall then contact the mediator to schedule the date and time for the initial mediation session. Once the initial mediation session has been scheduled, the Mediator shall notify the Court Administrator's Office. The Mediator will then send notice to the attorneys in writing to confirm the date.

### **Authority and Duties of Court Mediator**

#### **A. Authority of the Mediator**

1. The Mediator shall at all times be in control of the mediation, including scheduling and the procedures to be followed. The Mediator may meet and consult privately with any party or parties or their counsel during the mediation session(s).

#### **B. Duties of the Mediator.**

1. The Mediator shall explain the following to the parties at the beginning of the mediation:

- a. The process of mediation.
- b. The differences between mediation and other forms of conflict resolution.
- c. That a mediation is not a trial, the Court Mediator is not a judge, and the parties retain their right to trial if they do not reach settlement.
- d. The circumstances under which the Mediator may meet alone with either of the parties or any other person.
- e. Whether and under what conditions communications with the Mediator will be held in confidence during the mediation session.
- f. The duties and responsibilities of the Mediator and the parties.
- g. That the efforts of the mediator shall not be construed as giving legal advice.

### **Finalizing Agreement**

Upon reaching agreement, the parties and/or the Court Mediator may reduce the agreement to writing and sign it along with their counsel.

### **Dismissal Entry**

Upon reaching a resolution in mediation, counsel shall be instructed to file a dismissal entry with the Court within thirty (30) days.

1. The Court shall be notified that a settlement has been reached, and the Court Administrator shall check with the Clerk of Courts for filing of the dismissal entry within thirty days;
2. If no entry has been filed within the thirty (30) days, the Court may dismiss the case on its own motion.

### **Required Attendance**

All parties to the action, their attorney, and if an insurance company is involved, a representative of that company who has full authority to settle the matter, shall attend the mediation. All must be prepared and have full authority to intelligently and fairly discuss settlement and a resolution of the civil matter. A party other than a natural person must be represented by a person other than counsel.

The Mediator shall report to the Court in writing the name of the necessary person who failed to attend a scheduled mediation session or failed to make a good faith effort to participate in the mediation process.

If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the Court of such fact.

#### **Sanctions for Failure to Attend**

If counsel or a party fail to attend a duly ordered mediation session without good cause, or fails to make a good faith effort to participate in the mediation process, the Court may impose sanctions, including an award of attorneys fees and other costs, contempt or other appropriate sanction.

#### **Immunity**

The Mediator acting pursuant to this Local Rule shall have all immunity conferred by statute, rule and/or common law.

#### **Privilege**

Privilege as applied to the mediation process and the participants shall be governed by all applicable statutory provisions, the Rules of Evidence and any other pertinent judicial rule.

### **RULE NUMBER 15**

#### **REAL ESTATE SALE PROCEEDINGS**

EFFECTIVE OCTOBER 23, 2008

A. In action for the marshaling and foreclosure of liens, and the judicial sale of real estate, or any action involving title to real estate, counsel for the party requesting such marshaling, foreclosure and/or judicial sale of real estate shall prepare and file with the Clerk of Courts a preliminary judicial report. A final judicial report shall be filed in the proceeding at least ten days prior to the date of judgment. The cost of such judicial report shall be taxed as part of the costs of the proceeding.

B. In every action wherein a judicial sale of real estate is contemplated by the complaint or subsequent pleadings, the party praying for said sale or the attorney for the party praying for said

sale shall endorse thereon the following certification:

“The undersigned hereby certifies to the Common Pleas Court that an examination of the public records of Hardin County, Ohio, has been made to determine the ownership of the subject real estate and all parties who may claim an interest therein, and that, in the opinion of the undersigned, all parties have been named as parties to this action,” stating as exceptions any interested party not so named.

C. Upon any decree subsequently issued which orders the sale of real estate, the party or attorney having requested said sale shall further certify:

“the undersigned hereby certifies to the Common Pleas Court that the examination of title to the subject real estate has been extended to \_\_\_\_\_, to determine if any parties have acquired any interest therein subsequent to said previous examination and said examination discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of lis pendens applies,” also stating as further exceptions any such party not subject to lis pendens. Such certification shall also advise the Court that all necessary parties have been properly served and are before the Court.

D. Any proposed Judgment Entry of Foreclosure/Order of Sale of real estate shall contain the following language relating to access to the subject property:

“It shall be the responsibility of the attorney for the party who is prosecuting this foreclosure action to provide a key to the premises or to make other suitable arrangements with the Hardin County Sheriff’s Department for access to the property for appraisal purposes. The Court hereby ORDERS, ADJUDGES AND DECREES that the party who is prosecuting this foreclosure action and the Hardin County Sheriff’s Department should be and they hereby are authorized to use all reasonable means necessary or appropriate to gain access to the property for appraisal purposes, including but not limited to the retention of a locksmith. Expenses for gaining access to the property shall be taxed as costs.” The Hardin County Sheriff’s Department shall not be required to initiate the

appraisal process until such time as the attorney delivers the key or makes such suitable arrangements for the appraisers to view the premises

E. The Clerk shall not be requested to prepare Orders of Sale. Said Orders shall be typed by the attorney requesting the sale and filed with the Clerk, which Order shall contain the following minimal information: full legal description or the full property address and a summary of the property description which includes information on where to obtain the full legal description, with the permanent parcel number(s), amount due, interest due and date to which interest will continue to accrue. Said order of sale shall also be accompanied by the Hardin County Sheriff's Property Description Approval Form.

F. When satisfactory arrangements have been made for the appraisers to view the premises as set forth above, the Sheriff shall cause the appraisal to be completed within fourteen (14) days thereafter.

G. Upon completion of the appraisal as required by law, the appraisers shall submit their findings on an appraisal report prescribed by the Court. The Sheriff shall cause the original of such report to be filed with the Court with a copy to be retained by the Sheriff. The Sheriff shall appoint three disinterested free holders as appraisers, as required by law. The appraisers shall each receive \$50.00 per parcel appraised in each case as compensation.

H. All sales of real estate on order of this Court shall be conducted by the personnel of the Sheriff's Office, who by this rule have a standing Order to hire an auctioneer, with the costs of the auctioneer to be taxed as costs in each case handled by said auctioneer. Said fee ordinarily shall not exceed \$50.00 per parcel offered, or a maximum of \$100.00 for the sale of all parcels in each suit.

I. The Sheriff, deputy or party conducting the sale shall, prior thereto, announce that any purchasers shall have thirty (30) days from the date of sale to obtain an examination of title to said real estate. Should examination disclose the title so purchased to be unmarketable by reason of any defect in the proceedings or the existence of any interest not disclosed in either of the certifications described above, said purchaser may, within the thirty (30) day period after the sale, notify the Court thereof by written motion requesting that said sale be set aside. If the Court,

upon hearing thereof, finds said title to be unmarketable, the Court shall refuse to confirm said sale. The Court may, however, fix a reasonable time, not to exceed ninety (90) days, within which such defects may be corrected. A purchaser may waive any part or all of the thirty (30) day period by signing the confirmation entry, but no confirmation entry not approved by the purchaser shall be filed until said period has expired.

J. Taking of bids shall not cease until 5 minutes after the Sheriff positively and publicly identifies the highest bidder. If no further bids are received he shall accept the highest bid, always announcing that the sale is subject to confirmation by the Court.

K. On all sales of real estate to third party purchasers, the sheriff shall require from the purchaser as soon as a bid is accepted, identifying information from purchaser(s) and a deposit of a certified or cashier's check payable to the sheriff, or cash, for 10% of the amount bid. Said deposit shall be applied to conveyance fees, recording fees, and the sheriff's administrative cost, and any balance thereafter shall be applied to the purchase price of the real estate. Should the deposit be insufficient to meet costs, the purchaser must pay the difference to the sheriff at the time the confirmation entry approving the sale is filed. No deed will be filed or released until all costs are paid in full.

On sales to the plaintiff, the sheriff shall require from the plaintiff as soon as a bid is accepted, a deposit of a certified or cashier's check payable to him, or cash, in the amount of \$1,000.00 which shall be applied to conveyance fees, recording fees, and the sheriff's administrative cost, and any balance thereafter shall be refunded to the plaintiff. Should the deposit be insufficient to meet costs, the plaintiff must pay the difference to the sheriff at the time the confirmation entry approving the sale is filed. No deed will be filed or released until all costs are paid in full.

L. By the Monday following the date of the sale, the sheriff shall make his return to the court. The sale will be confirmed the following Monday unless objections are filed by an interested party. No confirmation of any sale by the Sheriff or by any master commissioner or receiver appointed by the Court shall be entered within one (1) week following such sale unless consented to by all parties involved in such suit.

M. The Sheriff shall keep a copy of these rules conspicuously posted at the place where he conducts sales, and shall call attention thereto before receiving bids. The Sheriff, in the advertisement of sale shall insert a notice that the full purchase price shall be paid within thirty days from the date of sale, and upon the second Monday following the sale the balance shall bear interest at the legal rate until paid.

N. In cases wherein property was purchased by the Plaintiff, sufficient costs, as determined by the Clerk of Courts, shall be deposited with the Sheriff before the Sheriff shall issue the deed thereon.

O. In the event the purchaser does not pay to the Sheriff the entire amount due on the purchase price of the premises within said thirty days, he/she shall be in contempt, and the Sheriff shall immediately cause a citation to issue commanding the purchaser to appear before the Judge of the Common Pleas Court having such matters in charge and show cause why he/she should not be punished. If found guilty, the Court, in fixing the penalty, shall take into consideration the costs of readvertising and all the expenses and losses necessarily incurred by reason of the delay and resale of the premises.

P. A Judgment Entry Confirming Sale, Ordering Deed and Distribution of Sale Proceeds shall be filed within thirty (30) days of the real estate sale.

Q. The Judgment Entry Confirming Sale, Ordering Deed and Distribution of Sale Proceeds shall include payment of the conveyance fee by the sheriff to the Hardin County Auditor to be paid from the sale deposit at the customary rate of \$4.00 per/thousand dollars of the sale price and \$.50 for each parcel.

R. The Judgment Entry Confirming Sale, Ordering Deed and Distribution of Sale Proceeds shall include payment for real estate taxes, penalties and assessments accrued and payable up to the date of the confirmation entry, which amount can be an estimated amount for the current tax year as calculated by reference to the current tax figures. In other words, taxes, etc. are payable from the proceeds of sale up to, and including, the date on which the confirmation entry is filed.

S. Any proposed Confirmation/Order of Distribution Entry shall contain the following certification:

“The undersigned hereby certifies to the Common Pleas Court that all proceedings herein have been in accordance with all applicable law and statutes in such cases provided.”

T. Plaintiff shall prepare and provide to the sheriff a deed for the premises within seven (7) days of receipt of the confirmation entry.

U. The sheriff shall be responsible for paying conveyance fees, filing of the deed and paying deed recording fees, and delivery of the deed to the purchaser.

V. Procedures not covered in these rules shall be in accordance with applicable Ohio Revised Code Sections and Ohio Rules of Procedure.

## **RULE NUMBER 16**

### **CASE MANAGEMENT FOR DOMESTIC RELATIONS CASES**

1. **PURPOSE:** The purpose of this rule is to establish a system for the speedy resolution or disposition of all domestic relations cases, which will also achieve and promote the fair and impartial administration of justice.

The rules that follow in this division supersede all previous rules and shall apply to all domestic relations matters. Other local rules of the Court shall apply to domestic relations when not inconsistent with the rules of this division.

### **VENUE**

Unless prior leave of court has been obtained, no petition for dissolution of marriage involving children shall be accepted for filing in this Court where neither petitioner has been a resident of Hardin County, Ohio for at least ninety (90) days immediately preceding the filing of the petition.

### **PARTIES TO ACTION**

Unless otherwise necessary and/or permitted by the Court, the only persons appearing for hearings, pretrials, status conferences, in camera interviews, or other scheduled matters shall be the parties, their attorneys if any, the Guardian Ad Litem if applicable, and witnesses who are necessary for a just adjudication of the matters at issue.

### **AFFIDAVIT OF INCOME AND EXPENSES**

Parties shall not be required to attach pay stubs, tax returns, or W-2 forms to the Uniform Domestic Relations forms adopted by the Supreme Court of Ohio when filing any domestic relations pleading.

Proof of or verification of income shall continue to be exchanged by the parties in keeping with Local Rule listing documents to be furnished without formal discovery requests. (Appendix I)

### **DISSOLUTION OF MARRIAGE**

All petitions for dissolution shall be commenced by the filing of the following document(s):

1. Petition with separation agreement.
2. Uniform Domestic Relations forms adopted by the Supreme Court of Ohio,
3. Support worksheet, if applicable.
4. IV-D application, if applicable, with proof of filing with Child Support Enforcement Agency, hereinafter CSEA.
5. Case designation sheet. (See Appendix A)

### **DIVORCE PLEADINGS**

All complaints for divorce shall be commenced by the filing of the following document(s):

1. Complaint,
2. Uniform Domestic Relations forms adopted by the Supreme Court of Ohio,
3. Support worksheet, if applicable,
4. IV-D application, if applicable, with proof of filing with CSEA
5. Motion for temporary orders, if requested and notice of hearing.
6. Case designation sheet. (See Appendix A)

All answers and counterclaims shall be filed with accompanying document(s):

1. Answer and/or counterclaim,
2. Uniform Domestic Relations forms adopted by the Supreme Court of Ohio,
3. Support worksheet, if plaintiff's is incorrect,

4. Motions for temporary orders, if not requested by plaintiff, and notice of hearing,
5. IV-D application, if not filed by plaintiff, with proof of filing with CSEA.

### **TEMPORARY STANDING ORDERS**

All parties to an original domestic relations action are subject to the reciprocal and initial restraining orders set forth in Appendix H from the date service of summons is completed.

Such order must be strictly complied with under penalty of Contempt of Court.

Counsel representing the plaintiff in any divorce, or legal separation action shall furnish his/her client with a copy of the DOMESTIC RELATIONS ADMONISHMENT. The Clerk of Courts shall attach a copy of the domestic relations admonishment to the summons for service upon the Defendant. In the event that a plaintiff is unrepresented by counsel, or the defendant has waived service of a copy of summons, a copy of the domestic relations admonishment shall be handed to the party(s) filing the action and mailed to the other party.

Any party may file a motion to modify this standing order for good cause shown and will be granted a hearing on same within thirty (30) days of service upon the opposing party.

### **TEMPORARY ORDERS**

Requests for temporary orders shall be set for hearing within forty-two (42) days of the date of filing. A continuance may be granted to either party for good cause shown.

Notice of hearing must be served with the initial pleadings pursuant to Ohio Rules of Civil Procedure.

No party shall be ordered removed from the marital residence without a hearing, unless an emergency situation exists as determined by the Court. At the hearing no Order will issue unless there is evidence that the party requesting the Order, or the minor child(ren) of the party requesting the Order, are in imminent danger of physical harm.

After filing of a Complaint for Divorce and prior to any temporary Orders being issued, except for parenting time periods, neither party shall relocate the minor child(ren) from the child's home, school district, or the jurisdiction of the Court. The purpose of this rule is to not disrupt the home and school environment of the child(ren) any more than necessary.

The Court shall allow two (2) hours hearing time for any temporary orders hearing with

one (1) hour of time being allocated to each party.

### **EX PARTE COMMUNICATION WITH COURT**

Except in emergency circumstances, or as otherwise provided by law, an attorney shall not communicate, or cause another to communicate, as to the merits of any litigation with any Judge or Magistrate, until final disposition, without adequate notice to opposing counsel and unrepresented adverse parties.

### **EX PARTE ORDERS**

Ex parte orders are discouraged and will not be issued except in exigent circumstances.

The Court may issue emergency ex parte orders when it appears to the Court, by motion and affidavit, and upon hearing, that 1) a child is about to suffer irreparable harm by reason of abuse, bodily injury, or domestic violence by the other party 2) a parent is unavailable due to hospitalization, incarceration or other emergency and 3) a violation by either parent of any of the provisions contained in numbered paragraph four (4) of the Domestic Relations Admonishment.

The non-moving party may, pursuant to Civil Rule 75(N)(2) request an oral hearing to modify such ex parte temporary order, which the Court shall schedule within twenty-eight (28) days of the request.

### **DISCOVERY**

In every original divorce or legal separation action, the parties shall, within forty-two (42) days of service of the complaint, whether or not requested through formal discovery, exchange all information and documents contained in Appendix I of these rules.

This rule shall be applicable to all motions for post decree relief involving financial matters.

### **PRETRIAL AND FINAL PRETRIAL CONFERENCE**

The purpose of the pretrial conference shall be to achieve amicable settlement of the controversy and in the event settlement is not possible, to limit the issues so as to expedite trial, or hearing of the action. All parties are required to be present at all pretrial conferences.

Pretrial conferences shall be held, at the discretion of the Judge or Magistrate in all cases involving a contested issue. If all matters are settled at pretrial conference, a final uncontested

hearing will take place immediately. If all matters are not resolved, the case shall be set for a final pretrial conference and/or trial, or final hearing.

At the time of the pretrial conference, the attorneys shall be prepared to:

1. Narrow the legal issues in controversy.
2. Admit to facts not in dispute.
3. Stipulate to the genuineness of documents and other exhibits to be introduced at trial.
4. Advise the Court on the need and time required for additional discovery.
5. Exchange witnesses expected to be called at trial.

Any motion for psychological evaluations, the appointment of a Guardian Ad Litem, Conciliation, Mediation, or DNA testing, etcetera shall be made no later than the date of the first scheduled pretrial, unless leave to file said request is granted by the Court.

#### **PRETRIAL BRIEF**

In all contested matters, a pretrial memorandum shall be filed and served upon all parties, and the Guardian Ad Litem, if one has been appointed, with a courtesy copy to the Judge or Magistrate assigned to hear the case no later than seven (7) days prior to the date set for final pretrial conference and shall include the following.

1. A brief summary of the case.
2. A list of witnesses and what they will testify to.
3. A proposed property settlement.
4. Whether custody and spousal support are issues and why.
5. Discovery required.
6. The anticipated trial time required.

Parties are required to give full, detailed, written disclosure, and absolute cooperation on all discovery requests unless protective orders are obtained and/or required. Parties violating this rule will be subject to sanctions limiting the presentation of claims and evidence, payment of attorney fees, dismissal of the action and any other sanction permitted by law.

#### **FINAL AND CONTESTED HEARINGS**

No contested matter shall be set for hearing on the merits until such time as the case has been set for pretrial unless waived by the Court.

A final pretrial will be scheduled within thirty (30) days prior to the date set for final trial, or hearing, at which time the pretrial brief shall be filed in accordance with Rule these rules.

If a party is going to testify in that party's case in chief, thereby affording the opposing party an opportunity for cross-examination, the Court will only permit the calling of that party on cross-examination in the opposing party's case in chief, for good cause shown.

### **STIPULATIONS**

Stipulations and private agreements of counsel or parties concerning the progress or management of any matter, not made in open court, will not be recognized unless the same are reduced to writing and signed by the parties thereto.

### **CONSENT JUDGMENT ENTRIES**

The Court shall not accept a consent Judgment Entry unless the same is approved by all parties of record and their respective counsel.

In the event a party is not represented by counsel, the Court may require a hearing on same which shall be attended by all parties and their attorneys.

### **JUDGMENT ENTRIES**

All judgment entries shall contain the approval of same by both parties and/or their attorneys.

All judgment entries of child support shall have included therein, or attached thereto, a child support worksheet and a copy of Domestic Relations Exhibit A.

All judgments that include the incorporation of a separation agreement in the entry shall have attached a copy of the separation agreement or other document which is incorporated.

All judgment entries shall dispose of court costs.

When appropriate, judgment entries shall recite waiver by the parties of such decision by the Magistrate.

**TEMPORARY CHILD AND SPOUSAL SUPPORT ARREARAGE SHALL BE DEEMED WAIVED UNLESS IT IS RESERVED IN THE FINAL DECREE.**

It is the obligation of counsel to insure that a file stamped copy of each entry dealing with child or spousal support filed by the Clerk of Courts is transmitted to the CSEA.

The Clerk's office maintains a file box for such entries which is checked daily by the CSEA. You may either:

1. Deliver the CSEA copy personally;
2. Place the CSEA copy in the file box in the Clerk's office;
3. Make sufficient copies with distribution indicated in the lower left hand corner and request the Clerk's office to place the entry in the box when file stamped.

### **TIMELY FILING OF ENTRIES**

All judgments, decrees and orders shall be prepared by prevailing counsel, or by the party directed by the Court, accurately reflecting the Court's decision, and submitted to opposing counsel within seven (7) days of the hearing. Opposing counsel shall approve or reject the entry within seven (7) days, and if approved, forthwith submit the same to the Court.

If opposing counsel fails to approve the same within the seven days, prevailing counsel shall submit the entry to the Court without the approval of opposing counsel. If opposing counsel rejects the entry, he/she shall prepare an entry in accordance with his objections and submit it to prevailing counsel and the Court together with the rejected entry.

If conflicting entries are submitted, the Court may:

1. Sign the entry that it deems a proper statement of the Court's decision or,
2. The Court may prepare its own entry without submitting the same to counsel for approval or,
3. The Court may schedule the matter for hearing.

If no entry is furnished to the Court within the time provided, the Court may dismiss the action for want of prosecution or make such other Order as the Court deems appropriate under the circumstances.

### **POST DECREE MOTIONS**

All motions for modification for child support, spousal support, parenting time and allocation of parental rights and responsibilities shall be commenced by the filing of the

following document(s):

1. Motion.
2. Memorandum or affidavit in support.
3. Uniform Domestic Relations forms adopted by the Supreme Court of Ohio
4. Support worksheet, if both parties income figures are readily available, or reasonably ascertainable.
5. Case designation sheet.

At the time of filing, the moving party, in addition, to the deposit required by the Clerk of Courts for filing such motion shall pay any unpaid court costs due and owing by same.

No motion for reallocation of parental rights and responsibilities shall be heard by the Court until a pretrial is conducted on the motion, unless waived by the Court.

The above provision shall not apply if the motion to reallocate parental rights and responsibilities is a joint motion made by all interested parties.

#### **MOTION FOR CONCILIATION**

Any party moving for conciliation pursuant to Ohio Revised Code Section 3105.091, shall set forth the name of the conciliator and shall generally describe the conciliation procedures requested. In addition, thereto said movant shall guarantee the costs of such conciliation procedure. Motions for conciliation shall be made no later than the first pretrial date for the case, unless leave is granted in writing by the Court to file said request at a later time.

If such motion for conciliation requests a conciliation procedure lasting more than sixty (60) days, such motion shall be set for oral hearing at the earliest possible time in order to determine the propriety thereof.

#### **RULE NUMBER 17**

##### **MEDICAL REPORTS AS EVIDENCE IN DOMESTIC RELATIONS CASES**

In any type of domestic hearing concerning the reasonableness or the necessity of a certain medical procedure to be performed, a medical report duly signed by the physician or other supplier of medically related services shall be sufficient and be admitted into evidence at said

hearing if properly served on the opposing counsel within seven (7) days before trial.

Said medical suppliers are not limited to, but shall include physicians, surgeons, optometrists, dentists, or any other medical specialty.

## **RULE NUMBER 18**

### **MEDIATION- DOMESTIC RELATIONS**

Mediation is a process of resolving disputes by the agreement of the parties with the assistance of an objective and impartial third party. The mediator generally does not recommend a settlement, but rather facilitates negotiations and communications between the parties until a mutually acceptable settlement of their differences is obtained, or until an impasse is evident.

#### **Actions for divorce, annulment or legal separation**

After service of summons in an action for divorce, annulment or legal separation involving the allocation of parental rights and responsibilities, the Court may order the parties to participate in mediation. Parties may also participate in mediation prior to or after the filing of a contempt motion for denial of parenting time.

#### **Post-decree motions to reallocate parental rights and responsibilities**

Upon the filing of a motion to modify the allocation of parental rights and responsibilities, the Court may order the parties to participate in mediation. If the Magistrate/Court determines that mediation is appropriate for the parties, the parties shall participate in mediation.

#### **Mediation**

If the parties agree to or are ordered to mediate, then the parties shall participate in mediation on a good faith basis with a court appointed mediator. Mediation sessions may be convened from time to time until all issues are resolved in a manner mutually acceptable to the parties or until the mediator determines continued efforts would not be productive. Unless ordered to participate in mediation, the parties may agree to terminate mediation. The Court may order parties to participate in or return to mediation at any time. At the request of the parties or counsel, or upon the Court's own motion, the Court may stay the proceedings for mediation for a period of time not to exceed ninety (90) days.

Parties are generally referred to mediation to mediate issues related to the allocation of parental rights and responsibilities. However, parties may agree to mediate issues other than, or in addition to, the allocation of parental rights and responsibilities, with the approval of their respective counsel or pursuant to Court order.

### **Mediation Fees**

Each party shall deposit the sum of \$75.00 to be applied to the total cost of mediation, which shall be paid within ten days of the file-stamped date of the mediation order. The Court, from mediation funds collected, shall pay the first \$200.00 of the fees of mediation, and the parties shall equally divide the remaining cost of mediation unless the parties agree upon or the Court orders a different division of the fee. Upon motion and for good cause shown, the Court may extend the time period within which the required deposit must be made. In the event a party is unable to pay the deposit for mediation, Counsel shall file an indigency affidavit and motion to waive or reduce costs. Upon filing of said paperwork, the Court shall examine the motion and issue a ruling.

### **Attendance**

All parties shall attend the mediation sessions, including the GAL, unless previously excused. Further, and pursuant to the Uniform Mediation Act (UMA), all parties may have their attorney and/or other support person or persons attend the mediation session. If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned Judge of such fact.

If a party ordered into mediation fails to attend the mediation session, the mediator shall notify the Court of same in writing.

### **Domestic Abuse**

If the opposing parties to any case are (1) related by blood, adoption, or marriage; (2) if the parties have resided in a common residence, or (3) have known or alleged domestic abuse at any time prior to the mediation, then the parties and their counsel have a duty to disclose such

information to the Court and have a duty to participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16.

### **Mediation Sessions**

Upon conclusion of the mediation, the mediator shall notify the Court who attended and whether the parties reached an agreement on all or some issues. If an agreement is not reached, then the Mediator shall inform the Court whether the case is scheduled for further mediation or is returned to the Court for further proceedings. No other information shall be communicated by the Mediator to the Court unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

Agreements reached in mediation shall not be binding upon the parties until reviewed and approved by their counsel and the Court. Statements made during mediation are confidential and shall be considered compromise negotiations and not admissible as evidence pursuant to Evidence Rule 408. Mediators are not permitted to testify regarding the substance of the mediation negotiations, including but not limited to, cooperation or non-cooperation by the parties.

### **Mediators**

To be a court approved mediator for divorce, annulment, legal separation, post-decree and other cases involving the allocation of parental rights and responsibilities, a mediator shall meet the following qualifications:

1. Completion of at least 12 hours of basic mediation training, 40 hours of specialized family and divorce mediation training and 14 hours of specialized domestic violence training for mediators.
2. Adherence to the Model Standards of Practice for Family and Divorce Mediation and the Special Policy Considerations for the State Regulation of Family Mediators and Court Affiliated Programs as set for in Rule 16 of the Rules Superintendence for the Courts of Ohio.
3. An undergraduate degree\* and at least two years of professional experience with

families. “Professional experience with families” includes counseling, casework, mediation, legal representation in family law matters, or equivalent experience as is satisfactory to the Court.

\*The undergraduate degree requirement may be waived by the Court upon consideration of well-documented equivalent educational experience.

4. Adherence to the ethical standards of any other profession that the mediator practices or in which the mediator is licensed.
5. A commitment to continuing education.
6. Awareness of the factors affecting the propriety of mediation in particular cases.
7. Substantial divorce and family mediation experience, or successful completion of a supervised domestic and family mediation apprenticeship.
8. Any mediator providing services for the Court shall utilize procedures that will:
  - a. Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
  - b. Screen for domestic violence both before and during mediation and by using a three tiered screening method along with the use of appropriate screening tools.
  - c. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims and/or suspected victims of domestic violence.
9. Any mediator providing services for the Court shall utilize procedures that will prohibit the use of mediation in any of the following:
  - a. As an alternative to the prosecution or adjudication of domestic violence.
  - b. In determining whether to grant, modify or terminate a protection order.
  - c. In determining the terms and conditions of a protection order.
  - d. Determining the penalty for violation of a protection order.

Any Mediator providing services for the Court shall only conduct a mediation session

where violence or fear of violence is alleged, suspected or present when that Mediator has completed the specified training that ensures that:

- A. The person who is or may be the victim of domestic violence is fully informed both orally and in writing about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions.
- B. The parties have the capacity to mediate without fear of coercion or control.
- C. Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
- D. Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties, and
- E. Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

Pursuant and subject to the provisions of the “Uniform Mediation Act” (UMA) O.R.C. 2710.01 to 2710.10, O.R.C. 3109.052, the Rules of Evidence, and any other pertinent judicial rule, all communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UNA, Rules of Evidence and other pertinent judicial rules. Upon written agreement, all communications may be confidential.

### **Mediated Parenting Plan**

- 1. If there is not a pending matter before the Court and the parties reach agreement on a mediated plan regarding the allocation of parental rights and responsibilities and/or parenting time issues, a copy of the memorandum of understanding shall be given to the parties with written instructions to contact legal counsel in order to discuss the procedures necessary to make the memorandum of understanding legally binding. It will include a written warning that the memorandum of understanding will not be legally binding unless further written legal action is

taken.

2. The Mediator shall make no recommendation to the Court based on either the parties' statement during the mediation process or any personal evaluation by the mediator of the comparative fitness of the parties as a custodial parent. Statements made during mediation shall be considered inadmissible as evidence pursuant to Evidence Rule 408. Further, no mediator shall be considered as a witness regarding any matter in which he or she has participated as a mediator.

### **Finalizing Agreement**

Upon reaching agreement, the parties and/or the Court Mediator may reduce the agreement to writing and sign it along with their counsel.

### **Dismissal Entry**

Upon reaching a resolution in mediation, counsel shall be instructed to file an entry with the Court within thirty (30) days.

1. The Court shall be notified that a settlement has been reached, and the Court Administrator shall check with the Clerk of Courts for filing of the dismissal entry within thirty days;
2. If no entry has been filed within the thirty (30) days, the Court may dismiss the matter on its own motion.

## **RULE NUMBER 19**

### **GUARDIAN AD LITEM APPOINTMENT**

The Court Magistrate shall maintain a list of approved attorneys and volunteers who have the required training and experience to serve as Guardian Ad Litem, hereinafter GAL.

In order to be eligible to receive an appointment, the volunteer or attorney shall have successfully completed the following training provided and/or approved by the Supreme Court of Ohio or by the Ohio CASA/GAL Association:

- (1) Six (6) hours of pre-service training and thereafter three (3) hours of continuing education training in each succeeding calendar year, beginning in 2010.

Additionally, each applicant must submit to the Court a resume or information sheet

demonstrating their ability to successfully perform the responsibilities of a GAL, submit to both a civil and criminal background investigation to determine their fitness to serve in such capacity and certify annually that they are unaware of any circumstances that would disqualify them from serving.

Requests for appointment of a GAL shall be by motion with supporting memorandum. If a GAL is appointed, the GAL shall be selected by the Judge or Magistrate.

Qualified individuals appointed to serve as guardians will be entitled to fees at the rate of \$50.00 per hour for out-of-court time and \$60.00 per hour for in-court time up to \$600.00 per case unless higher fees are approved by the Judge.

If a GAL is requested by an indigent party who has filed a proper poverty affidavit, the GAL fee will be assessed as court costs at the conclusion of the case. If both parties are indigent and have filed proper poverty affidavits, said GAL position shall be filled by a volunteer or an attorney on the court list.

If a GAL is appointed by the Court on its own initiative or if said appointment is deemed a requirement of law, the fee, as set by the Court, shall be paid by the party or parties the Court so designates in the Appointment Entry by a date specified in said entry. The GAL shall not be bound to any legal duty or obligation until said fee is posted as specified in the entry, unless both parties qualify as indigents pursuant to poverty affidavits filed with the Clerk, at which time the position shall be filled by a volunteer or an attorney on the court list.

In order to protect the fee for the services of the GAL, the Court shall 1) require both parties to deposit with the Clerk of Courts the sum of \$300.00 each and 2) have the discretion to issue a lump sum judgment against the party or parties in the action for which the GAL was appointed from the fees due and owing at the final adjudication. The fee of the GAL shall be taxed as court costs in the case.

Prior to any final adjudication of the matter on which the GAL has been appointed, the GAL shall submit a statement of fees to the Court for approval. If approved by the Court, said fees shall be made a part of the final entry, to be paid before final journalization of said entry.

Any complaints regarding the performance of a GAL must be submitted to the Magistrate in writing. A copy of the complaint shall be provided to the GAL and shall be forwarded to the Judge for consideration and appropriate action, if deemed necessary. In all cases the Court shall promptly notify the person making the complaint of the disposition of the matter.

## **RULE 20**

### **GUARDIAN AD LITEM DUTIES**

The Guardian Ad Litem's, hereinafter GAL, role is to conduct an investigation as to the character, family relations, and past conduct of the parties and child(ren) involved in a pending action and to be an advocate for the best interest of the minor child(ren) in the divorce or post-divorce/dissolution case in which appointed. This will require the GAL to establish a relationship with the child(ren) and to investigate the facts of the case as they relate to the child(ren). The GAL's role does not include conducting discovery for the attorney or parties in the case or making the final decision in a case.

In addition to any duties required under this rule the court-appointed GAL shall comply with and carry out all of the responsibilities required of same under Rule 48(D) of the Rules of Superintendence for the Courts of Ohio.

A GAL may be appointed by the Court as an investigative "friend of the Court" upon the Court's own motion or upon the motion of any party. As part of the GAL's fact-finding function and to bring facts to the attention of the Court, the GAL may present evidence in the court proceedings and cross-examine any witness called by a party. In furtherance of the GAL's duties, the GAL shall have access to all information relating to the case which is subject to discovery by both parties.

Upon written request by a volunteer GAL, with notice to the parties, the Court may appoint an attorney to assist the GAL in the court proceedings. If the child(ren) are joined as parties to the action, the Court may appoint an attorney to represent the child(ren). The GAL, through an attorney licensed to practice law in the State of Ohio, is authorized to file motions to continue scheduled hearings and to file motions related to the immediate needs of the child(ren), and other documents as directed by the Court, and shall serve all such documents on all parties pursuant to the Local Rules of this Court.

The GAL shall attend all court proceedings unless excused by the Court. The GAL may, and should, request to be excused from a proceeding in which his/her input will not be necessary.

The GAL should not be required to be present while the parties are engaging in extended negotiation sessions or for proceedings not dealing with the child(ren). The parties should refrain from asking, and the GAL should refrain from giving, an opinion prior to the review of all the facts in the case.

The rule pertaining to ex parte communications with the Court shall be applicable to communications with the court appointed GAL.

The GAL shall be served with all pleadings, motions, and other documents filed in the case after the appointment of the GAL and until such time as the GAL is discharged by the Court. All judgment entries, whether by consent or otherwise and relating to the allocation of parental rights and responsibilities submitted to the Court for approval shall include an approval line for the GAL's signature and be submitted to the GAL for approval or objection.

Not less than seven (7) days before the final hearing date, unless extended by the Court, the final report of the GAL shall be submitted to the Court and made available to the parties or their legal representatives for inspection and may be accessed in person or by phone. A copy of the final report shall be provided to the Court at the hearing. The Court shall consider the recommendation of the GAL in determining the best interest of the child(ren) only when the report or a portion of the report has been admitted as an exhibit.

The final written report including recommendations to the Court shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the GAL in reaching the recommendations and in accomplishing the duties required by statute, court rule and in the order of appointment.

At the conclusion of all evidence and as part of the hearing process, the GAL may orally submit any amended or supplemental recommendations based upon facts submitted at hearing.

In the event a party intends to call the GAL as a witness in any hearing conducted in the matter in which they are appointed, the GAL shall be given at least ten (10) days advanced notice, in writing, of the party's intent to call them as a witness during the hearing. Notice of the party's intent to call the GAL as a witness in a hearing should be served in accordance with applicable Civil Rules.

## **RULE NUMBER 21**

### **PARENTING CLASS**

All parents involved in a new or pending domestic case or in any case seeking post-decree relief in this Court which involves the designation of residential parent and allocation of parental rights and responsibilities for their child(ren) or the modification of the same shall be required to attend the parenting class. When **post-decree** relief is sought, the parents must have attended the parenting class within the **two years** immediately preceding the filing of the motion for relief; if over two years, the parties shall attend the parenting class again unless otherwise waived by the Court.

The fee for attendance of the program shall be paid by the attendee at the door to the program facilitators prior to admittance to the parenting class, payable by either cash or a money order.

The Court reserves the right to not schedule a final hearing until the parties to a dissolution or divorce with children file proof of attendance. The non-residential parent may not be granted parental rights or parenting time until the non-residential parent files proof of attendance at such class.

## **RULE NUMBER 22**

### **SPOUSAL AND CHILD SUPPORT PAYMENTS**

All spousal or child support payments shall be made to the Child Support Enforcement Agency as trustee for remittance to the person entitled to receive payments.

Any direct payments between individuals shall be considered as “gifts” by the Court.

Except as provided by Ohio Revised Code Section 3119.05(I), the prevailing minimum wage shall be imputed for all obligor’s and obligee’s who are not employed full-time earning at least the minimum wage and physically able to obtain gainful employment unless they have a child six (6) months old or younger residing in their home and born as issue of said party.

In all cases involving the establishment or modification of an order of child support, the decree of divorce or dissolution, or judgment entry shall include provision for the following:

- (1) Which parent has accessible private health insurance available for the minor child(ren), at a reasonable cost, and the allocation of uninsured health care expenses,
- (2) The amount of monthly child support to be paid by obligor, with and without health insurance coverage, and the monthly amount of each medical support, if applicable.
- (3) The effective date of the order

### **RULE NUMBER 23**

#### **CHILD SUPPORT DEVIATION(S)**

No order which deviates from the amount of child support that would otherwise result from the use of the basic child support schedule and the applicable worksheet will be approved by the Court unless the entry specifically lists the Ohio Revised Code 3119.23 factors upon which said deviation is based.

No order which deviates from the amount of child support that would otherwise result from the use of the basic child support schedule and the applicable worksheet under a shared parenting plan will be approved by the Court unless the entry 1) specifically lists the Ohio Revised Code 3119.23 criteria and/or 2) the extraordinary circumstances and other factors under Ohio Revised Code 3119.24 upon which said deviation is based.

Any order deviating from guideline child support shall contain the following:

“TAKING INTO CONSIDERATION THE CRITERIA SET FORTH IN REVISED CODE 3119.23 AND/OR THE FACTORS SET FORTH IN REVISED CODE 3119.24, THE AMOUNT OF CHILD SUPPORT CALCULATED PURSUANT TO THE SCHEDULES WOULD BE UNJUST, INAPPROPRIATE, AND WOULD NOT BE IN THE BEST INTEREST OF THE MINOR CHILD(REN).”

### **RULE NUMBER 24**

#### **UNINSURED HEALTH CARE EXPENSES**

Reasonable and ordinary medical expenses shall mean medical and/or dental costs which do not exceed \$100.00 per calendar year per child.

Unless otherwise agreed to by the parties, after the residential parent has paid the first \$100.00 per year per child for ordinary medical costs all medical, dental, optical, orthodontic, and ophthalmology expenses that are not covered by insurance shall be paid by the parties in amounts that are proportionate to their incomes as reflected in the computation of child support in effect at the time the obligation was incurred.

Any non-essential medical, extraordinary orthodontic, optical or ophthalmology expense shall not be incurred by either party without first advising the other party of the nature of the services to be provided and the anticipated costs of the care. If the parties cannot agree as to the necessity of the care or the amount of the cost of such care, the matter shall be submitted to the Court for determination or hearing.

The Court expressly reserves jurisdiction to apportion payment between the parties of exceptional medical or dental costs which are not covered by insurance upon motion of either party.

## **RULE NUMBER 25**

### **TAX EXEMPTION**

The right to claim children as tax dependents shall be based upon the income of the parties used in the calculation of child support.

If the parents do not agree who may claim the child(ren), the Court may permit the non-residential parent to claim the child(ren) if it determines that it furthers the child(ren)'s best interest and if the payments for child support are substantially current as ordered by the Court for the year in which the child(ren) will be claimed as dependent(s).

Any order which awards the tax dependency exemption to the parent that is not the residential parent shall include the following statutory language required by Ohio Revised Code Section 3119.82.

“THE RESIDENTIAL PARENT SHALL TAKE WHATEVER ACTION IS NECESSARY PURSUANT TO SECTION 152 OF ‘THE INTERNAL REVENUE CODE OF 1986’ 100 STAT. 2085, 26 U.S.C.1, AS AMENDED, TO ENABLE THE PARENT WHO IS NOT THE RESIDENTIAL PARENT AND LEGAL CUSTODIAN

TO CLAIM THE CHILD(REN) FOR FEDERAL INCOME TAX PURPOSES IN ACCORDANCE WITH THE ORDER OF THE COURT. ANY WILLFUL FAILURE OF THE RESIDENTIAL PARENT TO COMPLY WITH ORDER OF THIS COURT IS CONTEMPT OF COURT.”

## **RULE NUMBER 26**

### **STANDARD ORDER OF PARENTING TIME**

In any domestic relations case, barring otherwise extraordinary circumstances, the term “reasonable companionship” shall mean whatever the parties may be able to agree upon, but if in the event the parties should disagree, then said term shall be interpreted to mean that the non-residential parent shall have companionship as follows:

1. Alternate weekends from Friday evening at 6:00 p.m. to Sunday evening at 6:00 p.m.
2. For the purpose of parenting time, the following holidays are to be divided between the parents:
  1. New Year’s Eve/Day from 12/31 at 5:00 p.m.- ½ at 8:00 p.m.
  2. Martin Luther King Day from 9:00 a.m. until 8:00 p.m.
  3. President’s Day from 9:00 a.m. until 8:00 p.m.
  4. Easter from 9:00 a.m. until 8:00 p.m.
  5. Memorial Day from Sunday at 6:00 p.m. until Monday at 8:00 p.m.
  6. July 4<sup>th</sup> from 9:00 a.m. until 7/5 at 9:00 a.m.
  7. Labor Day from Sunday at 6:00 p.m. until Monday at 8:00 p.m.
  8. Columbus Day from 9:00 a.m. until 8:00 p.m.
  9. Veterans Day from 9:00 a.m. until 8:00 p.m.
  10. Thanksgiving from 9:00 a.m. until 8:00 p.m.
  11. Christmas Eve from 12/23 at 6:00 p.m. until 12/24 at 10:00 p.m.
  12. Christmas Day from 12/24 at 10:00 p.m. until 12/31 at 5:00 p.m.

In the odd-numbered years (i.e. 2001) the mother shall have the children on the odd-numbered holidays, and the father shall have parenting time on the even-numbered holidays. In

the even-numbered years (i.e. 2002) the father shall have the odd-numbered holidays and the mother the even numbered holidays.

3. On Mother's Day and Father's Day, no matter whose turn for parenting time, the children shall be with the appropriate parent on those days from 10:00 a.m. until 7:00 p.m.
4. The non-residential parent shall have two-weeks (2) parenting time each summer, with thirty (30) days advance written notice. The two weeks may be taken consecutively or separately, but not less than in one-week increments. If the non-residential parent has more than two (2) weeks vacation per year, then he or she may have additional weeks of visitation, not to exceed four weeks (4) total. The non-residential parent shall exercise his or her weeks in increments of one-week, up to periods of four weeks (4) total. Each parent wishing to have the children for vacations shall give thirty (30) days prior notice to avoid conflicting dates.
5. The child's birthday shall always be spent with the mother in even-numbered years, and shall always be spent with the father in odd-numbered years. If the parties cannot agree, the time is 10:00 a.m. to 8:00 p.m. for a child not in school on his/her birthday, and 4:00 p.m. to 8:00 p.m. for a child in school on his/her birthday. The other parent can celebrate on another date. The child's birthday is to be spent with the designated parent, even if the other parent is entitled to weekend, mid-week, holiday or vacation with the child. Brothers and sisters attend the birthday event.
6. The parties shall share transportation. When the residential parent begins his/her parenting time, he/she shall provide transportation, when the non-residential parent begins his/her parenting time he/she shall provide the transportation. All parties must provide reliable transportation with appropriate insurance coverage. All child restraint laws must be complied with by any person driving with the child(ren). No person transporting the child(ren) may be under the influence of

drugs or alcohol. Only licensed drivers known to the child(ren) may transport the child(ren).

7. The children, and/or the residential parent, have no duty to await the visiting parent for more than thirty (30) minutes following the designated start time. A parent late more than thirty (30) minutes shall forfeit that parenting time period.
8. Parenting time does not mean picking the children up and leaving them with someone else.
9. The residence of the children is not to be removed from the State of Ohio without first obtaining a modified visitation order from the Court of Common Pleas.
10. If for any reason the non-residential parent shall not be able to exercise visitation at the stated time, the residential parent shall be notified promptly and a mutually agreeable alternate time may be set. The non-residential parent shall give this notice as soon as possible after he/she learns that he/she will be unable to exercise parenting time at the stated time.
11. The non-residential parent shall be entitled to one mid-week period of visitation and companionship of three hours. If the parties cannot agree on both the day and time, it shall be on Wednesday from 5:00 p.m. to 8:00 p.m., unless otherwise Ordered by the Court. Both the day of the week and the beginning and ending times may be varied to accommodate the work schedules of the parties, the schedule of the children and the appropriate bedtime for the children during the school year.

#### **GUIDELINES**

- A. Clothing: The residential parent is responsible for providing sufficient, clean clothing for every visitation period. If the non-residential parent has a planned activity requiring special clothing, the non-residential parent must notify the residential parent at least two (2) days in advance. If the child(ren) does not have the type of clothing requested, the residential parent is under no obligation to comply with the request. All clothing sent by the residential parent **MUST** be returned with the child(ren) at the end of the visitation

period.

- B. Address & Telephone Numbers: Each parent must, unless otherwise Ordered by the Court, keep the other parent informed of his or her current address and telephone number, and an alternate number in case of an emergency.
- C. Traditions & Family: This schedule is not meant to interfere with family traditions. Each parent is encouraged to respect each other's family traditions and adjust the companionship accordingly. Each parent should expect new traditions to develop.
- D. Teenagers: A regular companionship routine may become more difficult as the child(ren) ages and has more activities outside the family unit, obtains a driver's license, dates, works and spends time with friends. The parents need to respect their teenager opting to spend more time with friends or in organized activities and less time with each parent, especially weekends and summers. Maximum flexibility in scheduling is absolutely necessary for a child of this age. Within limits, it is advisable to consider the teenager's wishes, as long as the parents agree.

#### **RULE NUMBER 27**

##### **STANDARD ORDER OF LONG DISTANCE PARENTING TIME**

In any domestic relations case, barring otherwise extraordinary circumstances, where the parties live in excess of one hundred twenty (120) miles of each other, the term "reasonable companionship" shall mean whatever the parties may be able to agree upon, but if in the event the parties should disagree, then said term shall be interpreted to mean that the non-residential parent shall have companionship as follows:

1. The third weekend of every month from Friday at 6:00 p.m. until Sunday at 6:00 p.m., if travel time is less than four (4) hours. The non-residential parent shall give one-week notice of his or her intent to exercise this companionship period.
2. Father's Day shall be spent with father and Mother's Day with mother if there is one-week's prior notice.
3. If the non-residential parent travels to the community where the residential parent lives, and gives two (2) days written notice of intent to exercise companionship,

then reasonable companionship may occur.

4. Summer visitation of four weeks, to be exercised in no less than increments of two weeks, with sixty (60) days prior notice. If the non-residential parent exercises more than two (2) consecutive weeks of summer visitation, then the residential parent may have parenting time with the child(ren) in the alternating weekends.
5. In the even-numbered years, Christmas vacation from the time the child(ren) is out of school until December 26 at 6:00 p.m.. If the child(ren) is not yet in school, then from December 20 at 6:00 p.m. until December 26, at 6:00 p.m.
6. In the odd-numbered years, from December 26 at 6:00 p.m. until January 1 at 6:00 p.m.
7. The non-residential parent and the residential parent shall share the responsibility for picking up and returning the child(ren). The non-residential parent shall pick-up the child(ren) and the residential parent shall be responsible for their return.

#### **RULE NUMBER 28**

#### **NOTICE OF INTENT TO RELOCATE**

A residential parent of a minor child or children subject to the jurisdiction of this Court who intends to move from the current residence of the child(ren) must first file, at least thirty (30) days in advance of such removal, a written notice with the Clerk of Courts setting forth date, place, address, phone number and other known information relative to relocation and cause said notice to be served upon the other parent by certified mail at his/her last known address, or personal service by the Sheriff.

If written notice of relocation is filed and served as required herein, and no objection or request for hearing is filed within thirty (30) days of the filing of the notice of relocation and served on the party filing the notice of relocation, the residential parent may relocate in the absence of further court order.

#### **RULE NUMBER 29**

#### **CIVIL PROTECTION ORDERS**

Upon request, the Clerk of Court's shall distribute petition for protection order forms. The requesting party shall be required to fill out the forms, have same notarized and file them with the Clerk of Courts prior to 2:30 p.m. daily.

Upon filing, the Court will conduct a brief hearing to determine whether a temporary order is justified. If warranted, the ex parte order will be issued and a hearing date will be scheduled.

### **RULE NUMBER 30**

#### **REAL PROPERTY DESCRIPTION**

All final orders which involve marital real estate shall include the full legal description and parcel number(s) of same in the final entry.

### **RULE NUMBER 31**

#### **BANKRUPTCY**

Whenever any party to an action pending in this court files bankruptcy, the attorney for same or the party, if acting in a pro se capacity, shall within five (5) days of the date of filing bankruptcy, file with the Court a copy of the "Notice of Bankruptcy Case Filing" along with a Judgment Entry granting stay and further provide notice of such filing to all unrepresented parties and counsel of record in conformance with Civil Rule 5.

The party or attorney filing the initial notice shall upon receipt of document(s) evidencing termination of the automatic stay by reason of dismissal of the bankruptcy petition, discharge of debtor(s), the granting of relief from stay by the bankruptcy court, or otherwise shall immediately file same with this court in order that said cause may continue.

### **RULE NUMBER 32**

#### **CONTEMPT MOTIONS**

Since contempt actions are controlled by Chapter 2705 of the Ohio Revised Code, any motion requesting a citation in contempt shall:

1. Specifically state the basis for the contempt citation, including the alleged contemnor's conduct and the order alleged to have been violated,

2. Contain notice of hearing and after filing shall be submitted to the assignment commissioner for scheduling, and
3. Include the following language:

FAILURE TO APPEAR MAY RESULT IN THE ISSUANCE OF AN ORDER OF ARREST AND IN THE ISSUANCE OF AN ORDER FOR THE PAYMENT OF SUPPORT BY WITHHOLDING AN AMOUNT FROM YOUR PERSONAL EARNINGS OR BY WITHHOLDING OR DEDUCTION AN AMOUNT FROM SOME OTHER ASSET YOU MAY OWN.

YOU HAVE THE RIGHT TO COUNSEL AND IF YOU BELIEVE YOU ARE INDIGENT YOU MAY APPLY FOR COURT APPOINTED COUNSEL WITHIN THREE (3) BUSINESS DAYS AFTER YOUR RECEIPT OF THIS SUMMONS.

THE COURT MAY REFUSE TO GRANT A CONTINUANCE AT THE TIME OF THE HEARING FOR THE PURPOSE OF YOUR OBTAINING COUNSEL, IF YOU FAIL TO MAKE A GOOD FAITH EFFORT TO RETAIN COUNSEL PRIOR TO THE HEARING.

IF YOU ARE FOUND GUILTY OF CONTEMPT, THE COURT MAY IMPOSE ANY OF THE FOLLOWING PENALTIES: (Ohio Revised Code Section 2705.05(A))

- (1) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$250.00, A DEFINITE TERM OF IMPRISONMENT OF NOT MORE THAN 30 DAYS IN JAIL, OR BOTH;
- (2) FOR A SECOND OFFENSE, A FINE OF NOT MORE THAN \$500.00, A DEFINITE TERM OF IMPRISONMENT OR NOT MORE THAN 60 DAYS IN JAIL, OR BOTH;
- (3) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT MORE THAN \$1,000.00, A DEFINITE TERM OF IMPRISONMENT OR NOT MORE THAN 90 DAYS IN JAIL, OR BOTH.

Notice of such motion and of the hearing thereon shall be served upon the subject party pursuant to the rules of service of summons contained in Civil Rule 4 through Civil Rule 4.6, incl., and the responsibility for initiating such service shall be on the movant.

Motions to show cause shall be heard within forty-two (42) days, of the filing thereof, or as soon thereafter as the Court's docket will permit. One continuance, not to exceed fourteen (14) days may be granted to either party for good cause shown. No further continuances shall be granted.

Any finding in contempt of the party will include an assessment of costs and may include an award of reasonable attorney's fees and costs. Unless proper evidence is presented justifying a higher fee awarded, the Court will not award attorney's fees in excess of \$200.00

### **RULE NUMBER 33**

#### **TITLED PERSONAL PROPERTY**

Any final order awarding and/or transferring ownership to titled personal property shall include the certificate of title number and vehicle identification number of such property.

### **RULE NUMBER 34**

#### **PARTITION CASES**

All proceedings in partition shall comply fully with Ohio Revised Code Chapter 5307. In a partition case any party shall have five days after the return of the order of appraisal to file objections to said appraisal. If no objections are filed, said appraisal may be confirmed by the Court at the expiration of said five day period.

Any interested party having a right to elect to take said premises, or any part thereof, at the appraised value shall do so within fourteen days after the confirmation of said appraisal. Notice of such election shall be given by such parties so electing to counsel of record for all parties, or the parties if not represented by counsel. Should such an election be made within said fourteen day period, and notice given as herein provided, then any other parties entitled to elect shall have an additional fourteen day period to file a similar election.

If no election is filed, or if more than one election is filed, then said property must be sold at public sale. Upon a praecipe being duly filed, an order of sale may issue for same forthwith. If only one election is filed to take the premises, or any part thereof, at the appraised value, then

such election shall be allowed and confirmed after the expiration of the fourteen day period herein provided for the filing of additional elections.

The party electing to take the property will not be required to pay or to deposit his share of the purchase price, but only his share of the costs, including attorney fees, while complying fully with Ohio Revised Code Section 5307.09, 5307.10, and 5307.12

**Fees of Attorneys**

The Court determines that the following constitutes reasonable counsel fees in partition cases, unless otherwise provided by Order of the Court:

Calculated on the selling price, if sold, otherwise calculated upon the appraised value: 6% of the first \$10,000.00; 4% of the next \$10,000.00; 3% on the remainder of the sale price or appraised value with the minimum fee being \$150.00 or 25% of the gross sales price, whichever is the lesser sum as provided in Ohio Revised Code Section 5307.25.

**RULE NUMBER 35**

**UNIFORM DOMESTIC RELATIONS FORMS**

Effective July 1<sup>st</sup>, 2010, Apendix G- Personal History and Financial Affidavit and Appendix J- Health Insurance Questionnaire will no longer be accepted for filing in any dissolution, divorce, or post decree motions filed in the Domestic Relations Division of the Hardin County Common Pleas Court.

The above-referenced forms are replaced by the Uniform Domestic Relations forms adopted by the Supreme Court of Ohio.

COMMON PLEAS COURT, HARDIN COUNTY, OHIO

\_\_\_\_\_  
Plaintiff(s),

-VS-

Case No. \_\_\_\_\_

\_\_\_\_\_  
Defendant(s).

**DESIGNATION FORM TO BE USED BY COUNSEL**

Civil Categories: Place (X) in one category only

- A.    (    )    PROFESSIONAL TORT
- B.    (    )    PRODUCT LIABILITY
- C.    (    )    OTHER TORTS
- D.    (    )    WORKERS COMPENSATION
- E.    (    )    FORECLOSURE
- F.    (    )    ADMINISTRATIVE APPEAL
- G.    (    )    COMPLEX LITIGATION
- H.    (    )    OTHER CIVIL

Domestic Categories: Place (X) in one category only

- A.    (    )    DIVORCE WITH CHILDREN
- B.    (    )    DIVORCE WITHOUT CHILDREN
- C.    (    )    DISSOLUTION OF MARRIAGE WITH CHILDREN
- D.    (    )    DISSOLUTION OF MARRIAGE WITHOUT CHILDREN
- E.    (    )    CHANGE OF CUSTODY
- F.    (    )    VISITATION ENFORCEMENT/MODIFICATION
- G.    (    )    SUPPORT ENFORCEMENT/MODIFICATION
- H.    (    )    DOMESTIC VIOLENCE
- I.    (    )    URESA
- J.    (    )    PARENTAGE
- K.    (    )    ALL OTHERS

I certify that to the best of my knowledge, the within case is not related to any now pending or previously filed.

\_\_\_\_\_  
Attorney of record signature

\_\_\_\_\_  
Address & Phone

\_\_\_\_\_



**INSTRUCTIONS TO JURORS**

1. You are hereby summoned to appear in Hardin County Common Pleas Court at **8:45 a.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_**, to serve as a juror. The Court is located on the third floor of the Hardin County Courthouse, Kenton, Ohio.
2. Please fill out the jury questionnaire and mail it in the stamped envelope provided as soon as possible.
3. A juror may be excused only if he or she presents a valid reason in writing to the Court. If the juror is unable to sign the written request for an excusal, another with knowledge of the facts may do so. Said request must be forwarded to the Court at once in the enclosed stamped envelope. Reasons must come within the following categories and should be as specific as possible.
  - A. The interests of the public will be materially injured by your attendance.
  - B. Your spouse or a near relative has recently died or is dangerously ill.
  - C. You are a cloistered member of a religious organization.
  - D. You have a mental or physical condition that causes you to be incapable of performing jury service. Written documentation from a physician licensed to practice medicine required.
  - E. Jury service would otherwise cause undue or extreme physical or financial hardship to you or a person under the care or supervision of you.
  - F. You are over seventy-five years of age and request to be excused.
  - G. You are an active member of a recognized Amish sect and request to be excused because of the sincere belief that as a result of that membership you cannot pass judgment in a judicial manner.

Please do not request to be excused for reasons other than those indicated above. The Court to be fair to all citizens whose names have been called, cannot excuse you. Please do not call the Court officials to secure an exemption. The request must be in writing. If you are excused, you will be notified accordingly. If you are not notified, you must appear as summoned. The Court would also remind you that failure to appear when called can result in serious personal penalty.

You are to call the Jury Hotline at (419) 675-4282, no later than the night before the date you are to appear for jury service to hear a recorded message confirming whether or not you are to report on the date shown on this notice. You may call the above number at any time for the status of the trial date or check the status of the date at our website at [www.hardincourts.com](http://www.hardincourts.com) by

clicking on the Hardin County Common Pleas Court link and viewing the Jury Information Page. **IT IS YOUR RESPONSIBILITY TO CONFIRM YOUR JURY SERVICE.**

**JUROR QUESTIONNAIRE****READ BEFORE ANSWERING:**

ALL INFORMATION ON THIS FORM MAY BE PUBLICLY DISCLOSED. IF YOU BELIEVE YOUR PRIVACY INTERESTS WILL BE HURT BY ANSWERING ANY OF THE FOLLOWING QUESTIONS, YOU MAY LEAVE THE RESPONSE LINE BLANK AND ONCE YOU ARE IN A COURTROOM, ASK FOR A HEARING TO STATE YOUR REASON(S) FOR LEAVING THE ANSWER(S) BLANK. THE HEARING WILL BE HELD IN THE JUDGE'S CHAMBERS, ON THE RECORD, WITH THE COURT REPORTER AND COUNSEL PRESENT. THE JUDGE MAY REQUIRE YOU TO ANSWER THE QUESTION(S).

1. Are you able to read and write? \_\_\_\_\_ Speak English? \_\_\_\_\_
2. Name \_\_\_\_\_  
(First) (Middle or Initial) (Last)
3. Highest grade completed in school \_\_\_\_\_
4. Former Residence \_\_\_\_\_
5. Your occupation and employer \_\_\_\_\_
6. If you are not employed, your last occupation and employer:  
\_\_\_\_\_
7. Marital Status: (circle one) Married Single Divorced Widowed  
Number of Children \_\_\_\_\_ Ages \_\_\_\_\_
8. If married, name and occupation of husband or wife \_\_\_\_\_  
\_\_\_\_\_
9. Have you served as a juror before? \_\_\_\_\_ When? \_\_\_\_\_  
What type of case? \_\_\_\_\_ Grand jury? \_\_\_\_\_ When? \_\_\_\_\_
10. Have you, or any other member of your immediate family, been a party to any lawsuits?  
\_\_\_\_\_ If so, when and in what county? \_\_\_\_\_
11. Are you either a close friend of, or related to, any law enforcement officer? \_\_\_\_\_  
What officer? \_\_\_\_\_ Relationship \_\_\_\_\_
12. Have you or any member of your family ever been a witness in a court case?

\_\_\_\_\_ What case? \_\_\_\_\_

13. Have you ever been convicted of any offense whether traffic or criminal? \_\_\_\_\_ Nature of offense  
\_\_\_\_\_
14. Do you have any disability impairing your capacity to serve as a juror, including impaired eyesight or hearing? \_\_\_\_\_  
If so, state its nature and extent \_\_\_\_\_
15. Do you spend any time out of the state or out of the county on a regular basis? \_\_\_\_\_ If so, state time & location  
\_\_\_\_\_

STATE OF OHIO,  
COUNTY OF HARDIN,

I SOLEMNLY AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT  
TO THE BEST OF MY KNOWLEDGE AND BELIEF.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

# Hardin County Common Pleas Court

This certifies that

**John Doe**

has rendered service as a Juror in this Court, pursuant to  
law in fulfillment of the duties of good citizenship.

IN WITNESS WHEREOF, I have hereunto subscribed by name  
and affixed the seal of the Court, on this 1<sup>st</sup> day of July, 2005.

---

Judge William D. Hart

**JUROR SERVICE EXIT QUESTIONNAIRE**

Your opinions and answers to the questions below will help us to improve jury service in Hardin County. The statistical data, which will insure that we are providing a good cross section of jurors, is personal so we ask that you DO NOT SIGN YOUR NAME. All responses are voluntary and confidential.

DATE: July 1, 2005

1. When you were first called to be a juror, what was your reaction?  
 \_\_\_ Very Pleased \_\_\_ Pleased \_\_\_ Displeased \_\_\_ Very Displeased
2. If you were called again, what would your reaction be?  
 \_\_\_ Very Pleased \_\_\_ Pleased \_\_\_ Displeased \_\_\_ Very Displeased
3. Were you seated as a juror on this case? \_\_\_ Yes \_\_\_ No  
 Type of Case \_\_\_ Criminal \_\_\_ Civil
4. How would you rate the following factors? (Please answer all)

	<u>Exc.</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>
A. Orientation Materials	_____	_____	_____	_____
B. Treatment by Court Personnel	_____	_____	_____	_____
C. Physical Comforts	_____	_____	_____	_____
D. Personal Safety	_____	_____	_____	_____
E. Scheduling of Your Time	_____	_____	_____	_____

5. A. What impressed you most about your jury experience? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- B. What disappointed you most about your jury experience? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- C. In what ways do you think jury service can be improved? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**STATISTICAL INFORMATION**

6. Age at your last birthday: \_\_\_\_\_ years old
7. Sex: \_\_\_\_\_ Female \_\_\_\_\_ Male
8. Race: \_\_\_\_\_ Black \_\_\_\_\_ White Other: (please specify) \_\_\_\_\_
9. Educational level. Circle the number of years of school completed.
- |                            |         |                 |
|----------------------------|---------|-----------------|
| Elementary and high school | College | Graduate School |
| 1 2 3 4 5 6 7 8 9 10 11 12 | 1 2 3 4 | 1 2 3 4 5 6     |
10. Occupation: \_\_\_\_\_
11. What is your total personal (not family) income: (Check range below)
- |                           |                           |                           |
|---------------------------|---------------------------|---------------------------|
| _____ less than \$7,000   | _____ \$13,000 - \$15,999 | _____ \$22,000 - \$24,999 |
| _____ \$ 7,000 - \$ 9,999 | _____ \$16,000 - \$18,999 | _____ \$25,000 - \$27,999 |
| _____ \$10,000 - \$12,999 | _____ \$19,000 - \$21,999 | _____ \$31,000 and over.  |

**DO NOT SIGN YOUR NAME TO THIS QUESTIONNAIRE**

**DOMESTIC RELATIONS ADMONISHMENT**

The Hardin County Common Pleas Court has Ordered that we advise you of the existence of three standing orders which apply to ALL divorce or legal separation cases. You need to understand these orders and know that their violation could result in your being found in Contempt of Court. A finding that you are in Contempt of Court might result in a jail sentence of up to ten (10) days and a fine of Five Hundred Dollars (\$500.00). If you have any questions regarding the rules, please be sure to ask your attorney.

1. Each party is hereby enjoined and restrained from doing, attempting to do, or threatening to do any act of injuring, maltreating, vilifying, molesting, or harassing the adverse party, their attorney, family members, employer, or any of the child(ren) of the parties.
2. Each party is hereby enjoined and restrained from selling, encumbering, contracting to sell, removing from the jurisdiction of this Court, or otherwise disposing of any of the property belonging to either of the parties, except in the ordinary course of business or unless authorized in writing by the Court.
3. Each party is hereby enjoined and restrained from changing or altering in any way, including, but not limited to, the named beneficiaries, covered persons or extent of coverage or benefits, of any life or health insurance policies, employee benefits plans or similar items or assets of a contractual nature, existing at the time of the filing of these proceedings, unless authorized in writing by the Court.
4. Each party is further enjoined from a.) changing the place of school (religious or secular) of the child or children, b.) removing any child or children from the jurisdiction of this Court, other than temporarily, without first obtaining the written consent of the other party, or the Court, and c.) obstructing and/or interfering with the right and privilege of the other parent to have frequent and continuing communication and physical contact with the child or children.

This is a self-executing order and any law enforcement officer is ordered to enforce the same by using whatever means are necessary to maintain the peace.

**DOCUMENTS TO BE EXCHANGED WITHOUT FORMAL DISCOVERY REQUESTS**

1. Complete federal and state income tax returns for the immediate past filing year and three years prior, with all schedules, W2's, 1099s, and other supporting documentation;
2. If received or likely to be received, a breakdown of overtime, commissions, and bonuses for the present year and past three years;
3. All documents verifying present gross income, including three (3) most recent pay stubs, as defined in Ohio Revised Code Section 3119.01, and any employment contracts;
4. Proof of the marginal costs of health care insurance (cost of single coverage and cost of coverage for child(ren));
5. Proof of child care costs, including all cancelled checks and receipts;
6. Cost of continuation of health insurance under COBRA;
7. As to all assets of all parties, whether claimed as marital or separate property, all of the following:
  - A. Real estate deeds, land contracts, options to purchase, leases, and timeshare documents, as well as any appraisals and financing/refinancing applications regarding the same.
  - B. If real estate was owned prior to the marriage, proof of purchase price, down payment, fair market value and mortgage balance at time of marriage, present mortgage balance, cost of improvements during the marriage;
  - C. Titles to all titled personal property, including but not limited to, vehicles, boats, motors, trailers, campers, aircraft, ATVs, personal watercraft, and motorcycles;
  - D. For all financial or brokerage accounts, provide one (1) year of statements, plus all cancelled checks and registers. If claimed as separate property, a complete investment and transaction history of each account;
  - E. All life insurance policies, plus proof of cash surrender value, history of loans

- against such policies, and present beneficiary designation for each policy;
- F. All health insurance policies;
  - G. Any pending or settled lawsuits or government claims (workers compensation, social security, etc.);
  - H. Trust documents, if a party, trustee, settlor, beneficiary, or party in interest;
  - I. Notes receivable or loans to others, and current balances and payment history;
  - J. All stocks, bonds, savings bonds or stock, stock options, mutual funds, or other investment vehicles, as well as twelve (12) months of brokerage statements. If claimed as separate property, a complete investment and transaction history of each.
  - K. Present value, with most recent statements, on all retirement benefits, including but not limited to IRAs, 401(k)s, 403(b)s, SEPs, Keoghs, government pensions, and employer-provided pensions, as well as information of any loans against the same. If a portion is premarital, the value at date of marriage, and if defined contribution, history of annual contributions to the same.
  - L. As to business interests of either party: all tax returns, with all schedules and financial statements, as well as any other documents requested by the other party, by Motion or Request to Produce;
  - M. Itemization of household goods and furnishings with an opinion as to fair market value or an appraisal. Identify each item that is claimed as pre-marital or separate property, and provide supporting documentation of said claim;
  - N. The present value of all other assets (including but not limited to judgments, airline miles, gift certificates, deferred compensation, unused vacation or sick pay, etc.), together with supporting documentation;
  - O. If claim of dissipation of assets is made, all documents evidencing the same.
  - P. If either party has transferred funds or property with value of \$500.00 or more to someone other than a spouse or creditor within the past year, all documents

evidencing the same.

- Q. If there is a claim of separate property interests (premarital, inherited, or gifted), all documents substantiating such claims, as well as tracing documents for the same.
8. As to all liabilities of the parties, whether individual, joint, or as co-maker, surety, or guarantor:
- A. Balance with all creditors at time of filing of action;
  - B. Credit card statements on all accounts for six (6) months prior to filing of action,
  - C. Proof of parties' liabilities at time of marriage;
  - D. Credit applications by either party;
  - E. Chapter 7 or 13 bankruptcy documents for the last seven (7) years.
9. Miscellaneous:
- A. Safety deposit box entry cards for six (6) months prior to filing of action;
  - B. Prenuptial or ante-nuptial agreements of either party;
  - C. Any divorce decree, qualified domestic relations order, or other court order that enforces a present or future obligation on a party (including maintaining beneficiary designations).

